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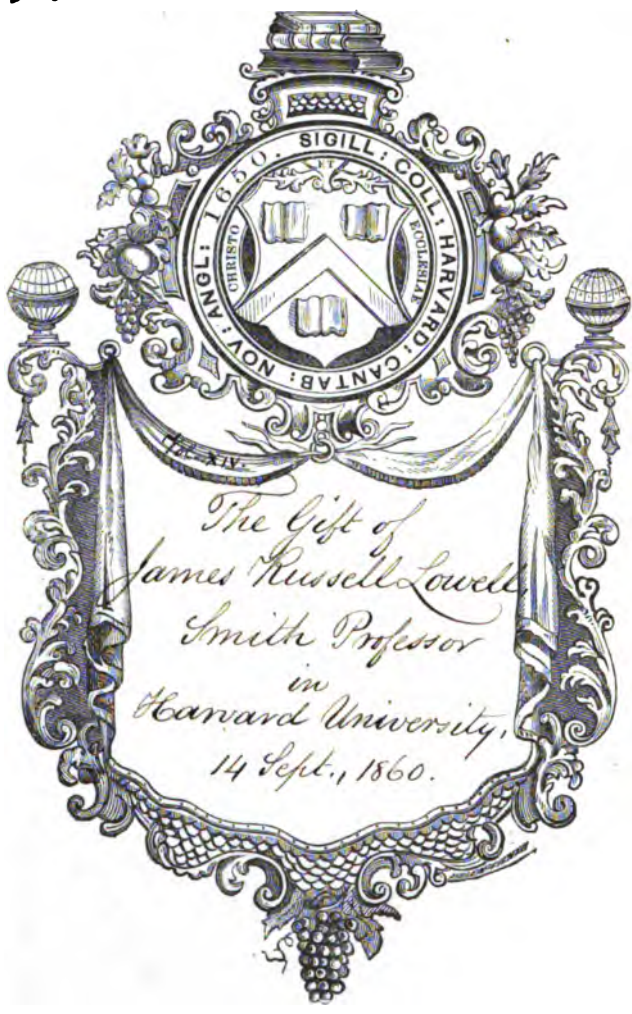
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**ABRIDGMENT**

**OF THE**

**DEBATES OF CONGRESS,**

**FROM 1789 TO 1856.**

**FROM GALES AND SEATON'S ANNALS OF CONGRESS; FROM THEIR  
REGISTER OF DEBATES; AND FROM THE OFFICIAL  
REPORTED DEBATES, BY JOHN C. RIVES.**

**BY**

**THE AUTHOR OF THE THIRTY YEARS' VIEW.**

*Thomas Hart Benton.*

**VOL. XIV.**

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# TWENTY-SIXTH CONGRESS.—FIRST SESSION.

BEGUN AT THE CITY OF WASHINGTON, DECEMBER 16, 1889.

## PROCEEDINGS AND DEBATES

IN THE

## SENATE AND HOUSE OF REPRESENTATIVES.\*

### HOUSE OF REPRESENTATIVES.

TUESDAY, December 16, 1889.

#### *Election of Speaker—Eleventh and Final Ballot.*

[This is the session in which a double return of Members from New Jersey prevented the organization of the House, and gave rise to lengthened proceedings not necessary to be related here, as not per-

taining to the legislative duties of Congress. We therefore begin with the eleventh ballot for Speaker of the House, which was the ballot that was effectual.]

FOR R. M. T. HUNTER.—Messrs. Adams, Alford, J. W. Allen, L. W. Andrews, Bell, Biddle, Black, Bond, Botta, Brockway, A. Brown, S. H. Butler, Calhoun, J. Campbell, W. B. Campbell, Carter, Chinn, Clark, Colquett, J. Cooper, M. A. Cooper, Corwin, Cranston, Crockett, Curtis, Cushing, E. Davies, G. Davis,

#### \* LIST OF MEMBERS OF THE SENATE.

*Maine*.—John Buggies, Euel Williams.  
*New Hampshire*.—Henry Hubbard, Franklin Pierce.  
*Vermont*.—Benjamin Swift, Samuel Prentiss.  
*Massachusetts*.—John Davis, Daniel Webster.  
*Rhode Island*.—Nehemiah R. Knight, Asner Robbins.  
*Connecticut*.—John M. Niles, Perry Smith.  
*New York*.—Nathaniel P. Tallmadge, Elias Wright, jr.  
*New Jersey*.—Samuel L. Southard, Garret D. Wall.  
*Pennsylvania*.—James Buchanan, Samuel McKean.  
*Delaware*.—Richard H. Bayard, Thomas Clayton.  
*Maryland*.—John S. Spence, William D. Merriek.  
*Virginia*.—William C. Rives, William H. Roane.  
*North Carolina*.—Bedford Brown, Robert Strange.  
*South Carolina*.—John C. Calhoun, William C. Preston.  
*Georgia*.—Wilson Lumpkin, Alfred Outhbert.  
*Alabama*.—Clement C. Clay, William E. King.  
*Mississippi*.—James Trotter, Robert J. Walker.  
*Louisiana*.—R. D. Nicholas, Alexander Mouton.  
*Tennessee*.—Felix Grundy, Hugh L. White.\*  
*Kentucky*.—Henry Clay, John J. Crittenden.  
*Ohio*.—William Allen, Benjamin Tappan.  
*Indiana*.—Oliver H. Smith, John Tipton.  
*Illinois*.—John M. Robinson, Richard M. Young.  
*Missouri*.—Thomas H. Benton, Lewis F. Linn.  
*Michigan*.—Lucius Lyon, John Norvell.  
*Arkansas*.—William S. Fulton, Ambrose H. Sevier.

\* Mr. Foster resigned November 1889, in consequence of the passage of resolutions by the Legislature instructing him as to certain votes. Mr. Felix Grundy, present United States Attorney-General, was elected to fill the vacancy. It is understood that Mr. White will also resign.

#### \* LIST OF MEMBERS OF THE HOUSE OF REPRESENTATIVES.

*Maine*.—Nathan Clifford, Albert Smith, Benjamin Randall, George Evans, Virgil D. Farris, Hugh S. Anderson, Joshua A. Lowell, Thomas Daves.  
*New Hampshire*.—Charles G. Atherton, Jared W. Williams, Tristram Shaw, Edmund Burke, Ira Eastman.  
*Massachusetts*.—Abbott Lawrence, Everett Saltonstall, Caleb Cushing, William Parmenter, Levi Lincoln, George N. Briggs, William B. Calhoun, William S. Hastings, Henry Williams, John Reed, John Quincy Adams.  
*Rhode Island*.—Joseph L. Tillinghast, William B. Cranston.  
*Connecticut*.—Joseph Trumbull, William L. Storrs, Thomas W. Williams, Thomas B. Osborne, Truman Smith, John H. Brockway.  
*Vermont*.—Hiland Hall, William Slade, Horace Everett, John Smith, Isaac Fletcher.  
*New York*.—Thomas B. Jackson, James De la Montayne, Ogden Hoffman, Edward Curtis, Moses H. Grinnell, James Monroe, Gouverneur Kemble, Charles Johnson, Nathaniel Jones, Rufus Palen, Aaron Vanderpool, John Ely, Hiram P. Hunt, Daniel D. Barnard, Anson Brown, David Russell, Augustus C. Hand, John Fine, Peter T. Wagener, Andrew W. Doig, John G. Floyd, David P. Brewster, Thomas C. Chittenden, John H. Prentiss, Judson Allen, John C. Clark, S. B. Leonard, Amasa Dana, Edward Rogers, Nehemiah H. Earl, Christopher Morgan, Theron B. Strong, Francis Granger, Meredith Mallory, Thomas Rempshall, Seth M. Gates, Luther C. Peck, Richard P. Marvin, Millard Fillmore, Charles F. Mitchell.  
*New Jersey*.—John B. Aycock, John P. B. Maxwell,

DECEMBER, 1889.]

Election of Speaker.

[26TH CONG.]

Dawson, Deberry, Dennis, Dillet, Edwards, Fillmore, Fisher, R. Garland, Gentry, Giddings, Goggin, Goode, Graham, Granger, Graves, Green, Griffin, Grinnell, Habersham, Hall, W. S. Hastings, Henry, Hill of Va., Hoffman, Holmes, Hopkins, Hunt, James, Chas. Johnston, W. O. Johnson, King, Lawrence, Lincoln, Marvin, Mason, Mercer, Mitchell, Monroe, Morgan, C. Morris, Naylor, Nisbet, Ogle, Osborne, Peck, Pickens, Pope, Proffit, Randall, Randolph, Rariden, Rayner, Reed, Ridgway, Russell, Saltonstall, Sergeant, Simonton, Slade, Tr. Smith, Stanly, Storrs, Sumter, Stuart, Taliaferro, W. Thompson, Tillinghast, Toland, Triplett, Trumbull, Underwood, P. J. Wagner, Warren, E. D. White, J. White, T. W. Williams, L. Williams, L. J. Williams, C. H. Williams, S. Williams, Wise, Jenifer, Everett, Chittenden, Evans, Gates, Bernard, Briggs, Folen, Crabb, and S. H. Anderson—119.

FOR J. W. JONES.—Messrs. J. Allen, Atherton, Beirne, Blackwell, A. V. Brown, W. O. Butler, Carroll, Clifford, Connor, Doan, Dromgoole, Earl, Ely, Fine, Hand, J. Hastings, Hawkins, Hill of N. C., Hillen, Holeman, Howard, J. Johnson, N. Jones, Keim, Kamball, Leonard, Lowell, Lucas, McClellan, McKay, Miller, Parish, Parmenter, Petrikin, Prentiss, Rives, J. Rogers, Shaw, Shepard, J. Smith, Thos. Smith, Steinrod, Strong, Swearingen, Sweeney, Taylor, F. Thomas, P. F. Thomas, Turney, Vanderpool, Weller, J. W. Williams, H. Williams, Worthington, and Banks—55.

FOR MR. DAVEY.—Messrs. H. J. Anderson, Fletcher, and Parris—3.

FOR F. THOMAS.—Messrs. Casey, J. W. Jones, and Mallory—3.

FOR MR. KEIM.—Messrs. Beatty, Bynum, J. Davis, Duncan, Fonnance, Galbraith, Gerry, Hammond, Hook, Hubbard, Leadbetter, Leet, Lewis, McCulloch, Marchand, Montgomery, S. W. Morris, New-

hard, Paynter, Ramsey, Robinson, E. Rogers, Samuels, and D. D. Wagener—24.

FOR MR. CASEY.—Messrs. Boyd, Brewster, Carr, Craig, Dana, De la Montayne, Doig, Cave Johnson, Reynolds, and Wick—10.

FOR MR. PICKENS.—A. G. Brown, Chapman, Coles, Cross, Medill, Rhett, Starkweather, J. Thompson, and Watterson—9.

FOR MR. ATHERTON.—Messrs. Burke, Eastman, Floyd, and Jackson—4.

FOR MR. STARKWEATHER.—Mr. Crary—1.

FOR MR. CLIFFORD.—Mr. Davey—1.

FOR MR. HOWARD.—J. W. Davis—1.

FOR MR. LEWIS.—A. Smith—1.

FOR MR. BOYD.—Mr. Jameson—1.

*Recapitulation of votes given for Speaker of the House of Representatives, 26th Congress, first session.*

	7th.	8th.	9th.	10th.	11th.
Whole number	229	232	231	232	232
Necessary to a choice	115	117	116	117	117
DIXON H. LEWIS	110	113	110	73	1
R. M. T. HUNTER	22	16	59	85	119
JOHN BELL	64	80	33	12	
FRANCIS GRANGER	12			2	
ZADOK CASEY	3	5	5	8	10
FRANCIS THOMAS	4	7	11	10	8
WILLIAM C. DAWSON	5	5	6	8	
JOHN W. JONES	2			14	55
GEORGE M. KEIM				12	24
FRANCIS W. PICKENS		1	1	5	9
Scattering	7	5	6	7	11

Mr. R. M. T. HUNTER having received a majority of the whole number of votes on the eleventh vote, was therefore declared duly elected.

William Halstead, Joseph F. Randolph, Charles C. Stratton, Thomas J. Yorke.

*Pennsylvania.*—Lemuel Paynter, John Sergeant, George W. Tolland, Charles Naylor, Edward Davies, Francis James, John Edwards, Joseph Fonnance, John Davis, David D. Wagener, Peter Newhard, George M. Keim, William Simonton, James Gerry, James Cooper, William B. Ramsey, David Petrikin, Robert H. Hammond, Samuel W. Morris, Charles Ogle, Albert G. Marchand, Enos Hook, Isaac Leet, Richard Biddle, William Beatty, Thomas Henry, John Galbraith, — McCullough.

*Delaware.*—Thomas Robinson.

*Maryland.*—John Dennis, P. F. Thomas, J. T. H. Worthington, J. Carroll, S. Hillen, jr., William Cost Johnson, Francis Thomas, Daniel Jenifer.

*Virginia.*—Henry A. Wise, Joel Holleman, Francis E. Rives, John M. Botta, R. M. T. Hunter, John Taliaferro, Charles F. Mercer, Linn Banks, George C. Dromgoole, John W. Jones, John T. Hill, Walter Coles, James Garland, William L. Goggin, William Lucas, George B. Samuel, Robert Craig, George W. Hopkins, Andrew Bierne, Joseph Johnson, Lewis Steinrod.

*North Carolina.*—Kenneth Rayner, Jesse A. Bynum, Edward Stanly, Charles Shepard, James McKay, Micajah T. Hawkins, Edmund Deberry, William Montgomery, John Hill, Charles Fisher, Henry W. Connor, James Graham, Lewis Williams.

*South Carolina.*—Isaac E. Holmes, Waddy Thompson, Francis W. Pickens, John Campbell, James Rogers, Thomas P. Sumter, — Butler, R. Barnwell Rhett, John K. Griffin.

*Georgia.*—Lot Warren, E. A. Nesbit, T. B. King, Mark A. Cooper, W. T. Colquett, R. W. Habersham, William C. Dawson, J. C. Alford, Edward J. Black.

*Alabama.*—R. H. Chapman, David Hubbard, George W. Crabb, Dixon H. Lewis, James Dillett.

*Louisiana.*—Edward D. White, Edward Chinn, Elice Garland.

*Kentucky.*—Lyan Boyd, Philip Triplett, Joseph Underwood, Sherred Williams, Simon H. Anderson, Willis Greene, John Pope, William J. Graves, John White, Richard Hawes, L. W. Andrews, Garret Davis, William O. Butler.

*Tennessee.*—William B. Carter, Abraham McClellan, Joseph L. Williams, Julius W. Blackwell, Hopkins L. Turney, William B. Campbell, John Bell, Meredith P. Gentry, Harvey M. Waterson, Aaron V. Brown, Cave Johnson, John W. Crockett, Christopher H. Williams.

*Illinois.*—John Reynolds, Zadoc Casey, John T. Stewart.

*Indiana.*—George H. Proffit, John Davis, John Carr, Thomas Smith, James Rariden, William W. Wick, T. A. Howard.

*Ohio.*—Alexander Duncan, John B. Weller, Patrick G. Goode, Thomas Corwin, William Doane, Calvary Morris, William K. Bond, Joseph Ridgway, William Medill, Samson Mason, Isaac Parish, Jonathan Taylor, D. P. Leadbetter, George Sweeney, John W. Allen, Joshua E. Giddings, John Hastings, D. A. Starkweather, Henry Swearingen.

*Missouri.*—John Miller.

*Michigan.*—Isaac E. Crary.

*Arkansas.*—Edward Cross.

*Mississippi.*—A. G. Brown, John Thompson.

1st SESS.]

*The President's Message.*

[DECEMBER, 1889.]

Mr. BANKS and Mr. LAWRENCE conducted the SPEAKER to the chair, when,  
On motion of Mr. WISE,  
The House adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, December 17.

At 12 o'clock, Mr. R. M. T. HUNTER, Speaker of the House, called the House to order, and addressed them as follows :

## GENTLEMEN OF THE HOUSE OF REPRESENTATIVES :

The high and undeserved honor which you have conferred upon me, has been so unexpected, that even now I can scarcely find terms in which to express my grateful sense of your kindness. I trust, however, to be able to offer a better evidence of that sentiment in the earnest efforts which I shall make to discharge my duties justly and impartially. Called as I have been to this high station, not so much from any merits of my own as from the independence of my position, I shall feel it as especially due from me to you to preside as the Speaker, not of a party, but of the House. Whilst I shall deem it my duty, upon all proper occasions, to sustain the principles upon which I stand pledged before the country, I shall hold myself bound, at the same time, to afford every facility within my power to the full and fair expression of the wishes and sentiments of every section of this great Confederacy. You will doubtless deem it your duty, gentlemen, as the grand inquest of the nation, to investigate all matters of which the people ought to be informed ; to retrench expenditures which are unnecessary or unconstitutional ; to maintain the just relations between all of the great interests of the country, and to preserve inviolate the constitution, which you will be sworn to support, whilst it will be mine to aid you in such labors with all of the means within my power. And although deeply impressed with a painful sense of my inexperience, and of the difficulties of a new and untried station, I am yet cheered by the hope that you will sustain me in my efforts to preserve the order of business and the decorum of debate. I am aware that party fervor is occasionally impatient of the restraint which it is the duty of the Chair to impose upon the asperities of debate, but at the same time I know that the just of all parties will sustain a Speaker who is honestly endeavoring to preserve the dignity of the House, and the harmony of its members.

Permit me, in conclusion, gentlemen, to tender you the homage of my heartfelt thanks for the honor which you have conferred upon me, and to express the hope that your counsels may be so guided by wisdom as to redound to your own reputation, and the welfare of our common country.

The Journal of yesterday was then read, when

The oath was administered to the members from the several States, except New Jersey, Mr. RANDOLPH not presenting himself when New Jersey was called.

After the members from all the States except New Jersey were sworn,

Mr. RANDOLPH, together with the five members claiming seats under the Governor's certificate, presented themselves at the Clerk's table,

and demanded to be sworn, but the SPEAKER refused to swear any of them except Mr. RANDOLPH.

The SPEAKER then stated that J. B. AYORIGG, C. O. STRATTON, J. P. B. MAXWELL, W. HALSTED, and T. J. YORKE, had appeared while he was administering the oath of office to the members, and demanded to be sworn. Had this question occurred this morning, *de novo*, and no proceeding of the House having been had upon it, he should not have hesitated in administering the oath to these gentlemen, but inasmuch as proceedings had been had heretofore in the House, and a decision made, or rather a negative proposition adopted, he felt it to be his duty to refuse to administer the oath to them, and to refer the matter to the House, to say whether they should be sworn.

[A debate occupying three days now took place on the question whether the members certificated by the Governor, should be sworn, which was finally decided in the negative—YEAS 112; NAYS 116.]

SATURDAY, December 21.

*Election of Clerk and Sergeant-at arms.*

The House then proceeded to the election of Clerk, when HUGH A. GARLAND was elected, and to the election of Sergeant-at-arms, when RODERIO DORSEY was elected.

## IN SENATE.

MONDAY, December 23.

A message was received from the House of Representatives by Mr. GARLAND, their Clerk, informing them that a quorum had assembled, and that ROBERT M. T. HUNTER, a Representative from the State of Virginia, was elected Speaker ; and that they were ready to proceed to business.

Also, that the House had concurred in the joint resolution of the Senate, that a joint committee of the two Houses be appointed to wait on the President, and inform him that a quorum of the two Houses had assembled, and were ready to receive any communications he might make ; and that Messrs. EVERETT and RAMSEY were appointed said committee on the part of the House.

## HOUSE OF REPRESENTATIVES.

TUESDAY, December 24.

*President's Message.*

The annual Message of the President to the two Houses of Congress was then read by the Secretary of the Senate :

*Fellow-citizens of the Senate,  
and House of Representatives :*

I regret that I cannot, on this occasion, congratulate you that the past year has been one of unalloyed prosperity. The ravages of fire and disease have

painfully afflicted otherwise flourishing portions of our country; and serious embarrassments yet derange the trade of many of our cities. But, notwithstanding these adverse circumstances, that general prosperity which has been heretofore so bountifully bestowed upon us by the Author of all good, still continues to call for our warmest gratitude. Especially have we reason to rejoice in the exuberant harvests which have lavishly recompensed well-directed industry, and given to it that sure reward which is vainly sought in visionary speculations. I cannot indeed view, without peculiar satisfaction, the evidences afforded by the past season of the benefits that spring from the steady devotion of the husbandman to his honorable pursuit. No means of individual comfort is more certain, and no source of national prosperity is so sure. Nothing can compensate a people for a dependence upon others for the bread they eat; and that cheerful abundance on which the happiness of every one so much depends, is to be looked for nowhere with such sure reliance as in the industry of the agriculturist and the bounties of the earth.

With foreign countries, our relations exhibit the same favorable aspect which was presented in my last annual message, and afford continued proof of the wisdom of the pacific, just, and forbearing policy adopted by the first administration of the Federal Government, and pursued by its successors. The extraordinary powers vested in me by an act of congress, for the defence of the country in an emergency, considered so far probable as to require that the Executive should possess ample means to meet it, have not been exerted. They have, therefore, been attended with no other result than to increase, by the confidence thus reposed in me, my obligations to maintain, with religious exactness, the cardinal principles that govern our intercourse with other nations. Happily, in our pending questions with Great Britain, out of which this unusual grant of authority arose, nothing has occurred to require its exertion; and as it is about to return to the legislature, I trust that no future necessity may call for its exercise by them, or its delegation to another department of the Government.

For the settlement of our north-eastern boundary, the proposition promised by Great Britain for a commission of exploration and survey, has been received, and a counter project, including also a provision for the certain and final adjustment of the limits in dispute, is now before the British Government for its consideration. A just regard to the delicate state of this question, and a proper respect for the natural impatience of the State of Maine, not less than a conviction that the negotiation has been already protracted longer than is prudent on the part of either Government, have led me to believe that the present favorable moment should on no account be suffered to pass without putting the question forever at rest. I feel confident that the Government of her Britannic majesty will take the same view of this subject, as I am persuaded it is governed by desires equally strong and sincere for the amicable termination of the controversy.

To the intrinsic difficulties of questions of boundary lines, especially those described in regions unoccupied, and but partially known, is to be added in our country the embarrassment necessarily arising out of our constitution, by which the General Government is made the organ of negotiating, and deciding upon the particular interest of the States on whose frontiers these lines are to be traced. To avoid

another controversy in which a State Government might rightfully claim to have her wishes consulted previously to the conclusion of conventional arrangements concerning her rights of jurisdiction or territory, I have thought it necessary to call the attention of the government of Great Britain to another portion of our continuous dominion, of which the division still remains to be adjusted. I refer to the line from the entrance of Lake Superior to the most north-western point of the Lake of the Woods, stipulations for the settlement of which are to be found in the seventh article of the treaty of Ghent. The commissioners appointed under that article by the two Governments having differed in their opinions, made separate reports, according to its stipulations, upon the points of disagreement, and these differences are now to be submitted to the arbitration of some friendly power, sovereign, or state. The disputed point should be settled, and the line designated, before the territorial government, of which it is one of the boundaries, takes its place in the Union as a State; and I rely upon the cordial co-operation of the British government to effect that object.

There is every reason to believe that disturbances like those which lately agitated the neighboring British provinces will not again prove the sources of border contentions, or interpose obstacles to the continuance of that good understanding which it is the mutual interest of Great Britain and the United States to preserve and maintain.

Within the provinces themselves tranquillity is restored, and on our frontier that misguided sympathy in favor of what was presumed to be a general effort in behalf of popular rights, and which in some instances misled a few of our more inexperienced citizens, has subsided into a rational conviction strongly opposed to all intermeddling with the internal affairs of our neighbors. The people of the United States feel, as it is hoped they always will, a warm solicitude for the success of all who are sincerely endeavoring to improve the political condition of mankind. This generous feeling they cherish towards the most distant nations; and it was natural, therefore, that it should be awakened with more than common warmth in behalf of their immediate neighbors. But it does not belong to their character, as a community, to seek the gratification of those feelings in acts which violate their duty as citizens, endanger the peace of their country, and tend to bring upon it the stain of a violated faith towards foreign nations. If zealous to confer benefits on others, they appear for a moment to lose sight of the permanent obligations imposed upon them as citizens, they are seldom long misled. From all the information I receive, confirmed to some extent by personal observation, I am satisfied that no one can now hope to engage in such enterprises without encountering public indignation, in addition to the severest penalties of the law.

Recent information also leads me to hope that the emigrants from her majesty's provinces, who have sought refuge within our boundaries, are disposed to become peaceable residents, and to abstain from all attempts to endanger the peace of that country which had afforded them an asylum. On a review of the occurrences on both sides of the line, it is satisfactory to reflect, that in almost every complaint against our country, the offence may be traced to emigrants from the provinces who have sought refuge here. In the few instances in which they were aided by citizens of the United States, the acts of these misguided men were not only in direct contravention of the

1st Sess.]

*The President's Message.*

[DECEMBER, 1889.]

laws and well-known wishes of their own Government, but met with the decided disapprobation of the people of the United States.

I regret to state the appearance of a different spirit among her majesty's subjects in the Canadas. The sentiments of hostility to our people and institutions, which have been so frequently expressed there, and the disregard of our rights which have been manifested on some occasions, have, I am sorry to say, been applauded and encouraged by the people, and even by some of the subordinate local authorities, of the provinces. The chief officers in Canada fortunately have not entertained the same feeling, and have probably prevented excesses that must have been fatal to the peace of the two countries.

I look forward anxiously to a period when all the transactions which have grown out of this condition of our affairs, and which have been made the subjects of complaint and remonstrance by the two Governments respectively, shall be fully examined, and the proper satisfaction given where it is due from either side.

Nothing has occurred to disturb the harmony of our intercourse with Austria, Belgium, Denmark, France, Naples, Portugal, Prussia, Russia or Sweden. The internal state of Spain has sensibly improved, and a well-grounded hope exists that the return of peace will restore to the people of that country their former prosperity, and enable the Government to fulfil all its obligations at home and abroad. The Government of Portugal, I have the satisfaction to state, has paid in full the eleventh and last instalment due to our citizens, for the claims embraced in the settlement made with it on the third day of March, 1887.

I lay before you treaties of commerce negotiated with the kings of Sardinia and of the Netherlands, the ratifications of which have been exchanged since the adjournment of Congress. The liberal principles of these treaties will recommend them to your approbation. That with Sardinia is the first treaty of commerce formed by that kingdom, and it will, I trust, answer the expectations of the present sovereign, by aiding the development of the resources of his country, and stimulating the enterprise of his people. That with the Netherlands happily terminates a long existing subject of dispute, and removes from our commercial intercourse all apprehension of embarrassment. The king of the Netherlands has also, in further illustration of his character for justice, and of his desire to remove every cause of dissatisfaction, made compensation for an American vessel captured in 1800 by a French privateer, and carried into Curaçoa, where the proceeds were appropriated to the use of the colony, then, and for a short time after, under the dominion of Holland.

The death of the late sultan has produced no alteration in our relations with Turkey. Our newly appointed minister resident has reached Constantinople, and I have received assurances from the present ruler that the obligations of our treaty, and those of friendship, will be fulfilled by himself in the same spirit that actuated his illustrious father.

I regret to be obliged to inform you that no convention for the settlement of the claims of our citizens upon Mexico has yet been ratified by the Government of that country. The first convention formed for that purpose was not presented by the president of Mexico for the approbation of its Congress, from the belief that the king of Prussia, the arbitrator in case of disagreement in the joint com-

mission to be appointed by the United States and Mexico, would not consent to take upon himself that friendly office. Although not entirely satisfied with the course pursued by Mexico, I felt no hesitation in receiving, in the most conciliatory spirit, the explanation offered, and also cheerfully consented to a new convention, in order to arrange the payments proposed to be made to our citizens, in a manner which, while equally just to them, was deemed less onerous and inconvenient to the Mexican Government. Relying confidently upon the intentions of that Government, Mr. Ellis was directed to repair to Mexico, and diplomatic intercourse has been resumed between the two countries. The new convention has, he informs us, been recently submitted by the president of that republic to its Congress, under circumstances which promise a speedy ratification; a result which I cannot allow myself to doubt.

Instructions have been given to the commissioner of the United States under our convention with Texas, for the demarcation of the line which separates us from that republic. The commissioners of both Governments met in New Orleans in August last. The joint commission was organized, and adjourned to convene at the same place on the twelfth of October. It is presumed to be now in the performance of its duties.

The new government of Texas has shown its desire to cultivate friendly relations with us, by a prompt reparation for injuries complained of in the cases of two vessels of the United States.

With Central America a convention has been concluded for the renewal of its former treaty with the United States. This was not ratified before the department of our late charge d'affaires from that country, and the copy of it brought by him was not received before the adjournment of the Senate at the last session. In the meanwhile, the period limited for the exchange of ratifications having expired, I deemed it expedient, in consequence of the death of the charge d'affaires, to send a special agent to Central America, to close the affairs of our mission there, and to arrange with the Government an extension of the time for the exchange of ratifications.

The commission created by the States which formerly composed the republic of Colombia, for adjusting the claims against that Government, has, by a very unexpected construction of the treaty under which it acts, decided that no provision was made for those claims of citizens of the United States which arose from captures by Colombian privateers, and were adjudged against the claimants in the judicial tribunals. This decision will compel the United States to apply to the several Governments formerly united for redress. With all these—New Granada, Venezuela and Ecuador, a perfectly good understanding exists. Our treaty with Venezuela is faithfully carried into execution, and that country, in the enjoyment of tranquillity, is gradually advancing in prosperity under the guidance of its present distinguished president, General Paéz. With Ecuador, a liberal commercial convention has lately been concluded, which will be transmitted to the Senate at an early day.

With the great American empire of Brazil our relations continue unchanged, as does our friendly intercourse with the other governments of South America—the Argentine republic, and the republics of Uruguay, Chili, Peru, and Bolivia. The dissolution of the Peru Bolivian confederation may occasion some temporary inconvenience to our citizens in that

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quarter, but the obligations on the new Governments which have arisen out of that confederation to observe its treaty stipulations, will no doubt be soon understood, and it is presumed that no indisposition will exist to fulfil those which it contracted with the United States.

The financial operations of the Government during the present year have, I am happy to say, been very successful. The difficulties under which the treasury department has labored from known defects in the existing laws relative to the safe-keeping of the public moneys, aggravated by the suspension of specie payments by several of the banks holding public deposits, or indebted to public officers for notes received in payment of public dues, have been surmounted to a very gratifying extent. The large current expenditures have been punctually met, and the faith of the Government in all its pecuniary concerns has been scrupulously maintained.

The nineteen millions of treasury notes authorized by the act of Congress of 1837, and the modifications thereof, with a view to the indulgence of merchants on their duty bonds, and of the deposit banks in the payment of public moneys held by them, have been so punctually redeemed as to leave less than the original ten millions outstanding at any one time, and the whole amount unredeemed now falls short of three millions. Of these the chief portion is not due till next year, and the whole would have been already extinguished could the treasury have realized the payments due to it from the banks. If those due from them during the next year shall be punctually made, and if Congress shall keep the appropriations within the estimates, there is every reason to believe that all the outstanding treasury notes can be redeemed, and the ordinary expenses defrayed, without imposing on the people any additional burden, either of loans or increased taxes.

To avoid this, and to keep the expenditures within reasonable bounds, is a duty, second only in importance to the preservation of our national character, and the protection of our citizens in their civil and political rights. The creation, in time of peace, of a debt likely to become permanent, is an evil for which there is no equivalent. The rapidity with which many of the States are apparently approaching to this condition, admonishes us of our duties, in a manner too impressive to be disregarded. One, not the least important, is to keep the Federal Government always in a condition to discharge, with ease and vigor, its highest functions, should their exercise be required by any sudden conjuncture of public affairs—a condition to which we are always exposed, and which may occur when it is least expected. To this end, it is indispensable that its finances should be untrammelled, and its resources, as far as practicable, unincumbered. No circumstance could present greater obstacles to the accomplishment of these vitally important objects, than the creation of an onerous national debt. Our own experience, and also that of other nations, have demonstrated the unavoidable and fearful rapidity with which a public debt is increased, when the Government has once surrendered itself to the ruinous practices of supplying its supposed necessities by new loans. The struggle, therefore, on our part, to be successful, must be made at the threshold. To make our efforts effective, severe economy is necessary. This is the surest provision for the national welfare; and it is, at the same time, the best preservative of the principles on which our institutions rest. Simplicity and econ-

omy in the affairs of State have never failed to chasten and invigorate republican principles, while these have been as surely subverted by national prodigality under whatever specious pretexts it may have been introduced or fostered.

These considerations cannot be lost upon a people who have never been inattentive to the effect of their policy upon the institutions they have created for themselves; but at the present moment their force is augmented by the necessity which a decreasing revenue must impose. The check lately given to the importation of articles subject to duties, the derangements in the operations of internal trade, and especially the reduction gradually taking place in our tariff of duties, all tend materially to lessen our receipts; indeed, it is probable that the diminution resulting from the last cause alone, will not fall short of five millions of dollars in the year 1842, as the final reduction of all duties to twenty per cent. then takes effect. The whole revenue then accruing from the customs, and from the sales of public lands, if not more, will undoubtedly be wanted to defray the necessary expenses of the Government under the most prudent administration of its affairs. These are circumstances that impose the necessity of rigid economy, and require its prompt and constant exercise. With the legislature rests the power and duty of so adjusting the public expenditure as to promote this end. By the provisions of the constitution, it is only in consequence of appropriations made by law, that money can be drawn from the treasury; no instance has occurred since the establishment of the Government in which the Executive, though a component part of the legislative power, has interposed an objection to an appropriation bill on the sole ground of its extravagance. His duty in this respect has been considered fulfilled by requesting such appropriations only as the public service may reasonably be expected to require. In the present earnest direction of the public mind toward this subject, both the Executive and the legislature have evidence of the strict responsibility to which they will be held; and while I am conscious of my own anxious efforts to perform with fidelity this portion of my public functions, it is a satisfaction to me to be able to count on a cordial co-operation from you.

At the time I entered upon my present duties, our ordinary disbursements—without including those on account of the public debt, the post office, and the trust funds in the charge of the Government—had been largely increased by appropriations for the removal of the Indians, for repelling Indian hostilities, and for other less urgent expenses which grew out of an overflowing treasury. Independent of the redemption of the public debt and trusts, the gross expenditures of seventeen and eighteen millions in 1834 and 1835 had, by those causes, swelled to twenty-nine millions in 1836; and the appropriations for 1837, made previously to the 4th of March, caused the expenditure to rise to the very large amount of thirty-three millions. We were enabled, during the year 1838, notwithstanding the continuance of our Indian embarrassment, somewhat to reduce this amount; and that for the present year, 1839, will not, in all probability, exceed twenty-six millions—or six millions less than it was last year. With a determination, so far as depends on me, to continue this reduction, I have directed the estimates for 1840 to be subjected to the severest scrutiny, and to be limited to the absolute requirements of the public service. They will be

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found less than the expenditures of 1889 by over five millions of dollars.

The precautionary measures which will be recommended by the Secretary of the Treasury, to protect faithfully the public credit under the fluctuations and contingencies to which our receipts and expenditures are exposed, and especially in a commercial crisis like the present, are recommended to your early attention.

On a former occasion, your attention was invited to various considerations in support of a pre-emption law in behalf of the settlers on the public lands; and also of a law graduating the prices for such lands as had long been in the market unsold, in consequence of their inferior quality. The execution of the act which was passed on the first subject has been attended with the happiest consequences, in quieting titles, and securing improvements to the industrious; and it has also, to a very gratifying extent, been exempt from the frauds which were practised under previous pre-emption laws. It has, at the same time, as was anticipated, contributed liberally during the present year to the receipts of the treasury.

The passage of a graduation law, with the guards before recommended, would also, I am persuaded, add considerably to the revenue for several years, and prove in other respects just and beneficial.

Your early consideration of the subject is, therefore, once more earnestly requested.

The present condition of the defences of our principal seaports and navy yards, as represented by the accompanying report of the Secretary of War, calls for the early and serious attention of Congress; and, as connecting itself intimately with this subject, I cannot recommend too strongly to your consideration the plan submitted by that officer for the organization of the militia of the United States.

In conformity with the expressed wishes of Congress, an attempt was made in the spring to terminate the Florida war by negotiation. It is to be regretted that these humane intentions should have been frustrated, and that the effort to bring these unhappy difficulties to a satisfactory conclusion should have failed. But, after entering into solemn engagements with the commanding general, the Indians, without any provocation, recommenced their acts of treachery and murder. The renewal of hostilities in that territory, renders it necessary that I should recommend to your favorable consideration the plan which will be submitted to you by the Secretary of War, in order to enable that department to conduct them to a successful issue.

Having had an opportunity of personally inspecting a portion of the troops during the last summer, it gives me pleasure to bear testimony to the success of the effort to improve their discipline, by keeping them together in as large bodies as the nature of our service will permit. I recommend, therefore, that commodious and permanent barracks be constructed at the several posts designated by the Secretary of War. Notwithstanding the high state of their discipline and excellent police, the evils resulting to the service from the deficiency of company officers were very apparent, and I recommend that the staff officers be permanently separated from the line.

The navy has been usefully and honorably employed in protecting the rights and property of our citizens, wherever the condition of affairs seemed to require its presence. With the exception of one instance, where an outrage, accompanied by murder, was committed on a vessel of the United States while

engaged in a lawful commerce, nothing is known to have occurred to impede or molest the enterprise of our citizens on that element where it is so signally displayed. On learning this daring act of piracy, Commodore Reed proceeded immediately to the spot, and receiving no satisfaction, either in the surrender of the murderers or the restoration of the plundered property, inflicted severe and merited chastisement on the barbarians.

It will be seen by the report of the Secretary of the Navy respecting the disposition of our ships of war, that it has been deemed necessary to station a competent force on the coast of Africa, to prevent a fraudulent use of our flag by foreigners.

Recent experience has shown that the provisions in our existing laws which relate to the sale and transfer of American vessels while abroad, are extremely defective. Advantage has been taken of these defects to give to vessels wholly belonging to foreigners, and navigating the ocean, an apparent American ownership. This character has been so well simulated as to afford them comparative security in prosecuting the slave-trade, a traffic emphatically denounced in our statutes, regarded with abhorrence by our citizens, and of which the effectual suppression is nowhere more sincerely desired than in the United States. These circumstances make it proper to recommend to your early attention a careful revision of these laws, so that, without impeding the freedom and facilities of our navigation, or impairing an important branch of our industry connected with it, the integrity and honor of our flag may be carefully preserved. Information derived from our consul at Havana, showing the necessity of this, was communicated to a committee of the Senate near the close of the last session, but too late, as it appeared, to be acted upon. It will be brought to your notice by the proper department, with additional communications from other sources.

The latest accounts from the exploring expedition represent it as proceeding successfully in its objects, and promising results no less useful to trade and navigation than to science.

The extent of post roads covered by mail service on the first of July last, was about 183,999 miles, and the rate of annual transportation upon them \$4,496,878 miles. The number of post offices on that day was twelve thousand seven hundred and eighty, and on the thirtieth ultimo, thirteen thousand and twenty-eight.

The revenue of the post office department for the year ending with the 30th of June last, was four million four hundred and seventy-six thousand six hundred and thirty-eight dollars—exhibiting an increase over the preceding year of two hundred and forty-one thousand five hundred and sixty dollars. The engagements and liabilities of the department for the same period are four million six hundred and twenty-four thousand one hundred and seventeen dollars.

The excess of liabilities for the revenue for the last two years has been met out of the surplus which had previously accumulated. The cash on hand on the thirtieth ultimo, was about \$206,701 95, and the current income of the department varies very little from the rate of current expenditures. Most of the service suspended last year has been restored, and most of the new routes established by the act of 7th July, 1888, have been set in operation at an annual cost of \$136,968. Notwithstanding the pecuniary difficulties of the country, the department appears to be increasing; and unless it shall be seriously



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checked by the recent suspension of payment by so many of the banks, it will be able not only to maintain the present mail service, but in a short time to extend it. It is gratifying to witness the promptitude and fidelity with which the agents of this department in general perform their public duties.

Some difficulties have arisen in relation to contracts for the transportation of the mails by railroad and steamboat companies. It appears that the maximum of compensation provided by Congress for the transportation of the mails upon railroads is not sufficient to induce some of the companies to convey them at such hours as are required for the accommodation of the public. It is one of the most important duties of the General Government to provide and maintain for the use of the people of the States the best practicable mail establishment. To arrive at that end, it is indispensable that the post office department shall be enabled to control the hours at which the mails shall be carried over railroads, as it now does over all other roads. Should serious inconveniences arise from the inadequacy of the compensation now provided by law or from unreasonable demands by any of the railroad companies, the subject is of such general importance as to require the prompt attention of Congress.

In relation to steamboat lines, the most efficient remedy is obvious, and has been suggested by the Postmaster General. The War and Navy Departments already employ steamboats in their service, and although it is by no means desirable that the Government should undertake the transportation of passengers or freight as a business, there can be no reasonable objection to running boats, temporarily, whenever it may be necessary to put down attempts at extortion, to be discontinued as soon as reasonable contracts can be obtained.

The suggestions of the Postmaster General relative to the inadequacy of the legal allowance to witnesses in cases of prosecutions for mail depredations merit your serious consideration. The safety of the mails requires that such prosecutions shall be efficient, and justice to the citizen whose time is required to be given to the public, demands not only that his expenses shall be paid, but that he shall receive a reasonable compensation.

The reports from the War, Navy and Post Office Departments will accompany this communication, and one from the Treasury Department will be presented to Congress in a few days.

For various details in respect to the matters in charge of these departments, I would refer you to those important documents, satisfied that you will find in them many valuable suggestions, which will be found well deserving the attention of the legislature.

From a report made in December of last year by the Secretary of State, to the Senate, showing the trial docket of each of the circuit courts, and the number of miles each judge has to travel in the performance of his duties, a great inequality appears in the amount of labor assigned to each judge. The number of terms to be held in each of the courts composing the ninth circuit, the distances between the places at which they sit, and from thence to the seat of Government, are represented to be such as to render it impossible for the judge of that circuit to perform, in a manner corresponding with the public exigencies, his term and circuit duties. A revision, therefore, of the present arrangement of the circuits

seems to be called for, and is recommended to your notice.

I think it proper to call your attention to the power assumed by territorial legislatures to authorize the issue of bonds by corporate companies on the guarantee of the territory. Congress passed a law in 1886, providing that no act of a territorial legislature incorporating banks should have the force of law until approved by Congress; but acts of a very exceptionable character, previously passed by the legislature of Florida, were suffered to remain in force, by virtue of which bonds may be issued to a very large amount by these institutions upon the faith of the territory. A resolution, intending to be a joint one, passed the Senate at the same session, expressing the sense of Congress that the laws in question ought not to be permitted to remain in force unless amended in many material respects, but it failed in the House of Representatives for the want of time, and the desired amendments have not been made. The interests involved are of great importance, and the subject deserves your early and careful attention.

The continued agitation of the question relative to the best mode of keeping and disbursing the public money, still injuriously affects the business of the country. The suspension of specie payments in 1837 rendered the use of deposit banks, as prescribed by the act of 1836, a source rather of embarrassment than aid, and of necessity placed the custody of most of the public money afterwards collected in charge of the public officers. The new securities for its safety, which this required, were a principal cause of my convening an extra session of Congress; but, in consequence of a disagreement between the two Houses, neither then, nor at any subsequent period, has there been any legislation on the subject. The effort made at the last session to obtain the authority of Congress to punish the use of public money for private purposes as a crime—a measure attended under other Governments with signal advantage—was also unsuccessful, from diversities of opinion in that body, notwithstanding the anxiety doubtless felt by it to afford every practicable security. The result of this is still to leave the custody of the public money without those safeguards which have been for several years earnestly desired by the Executive; and, as the remedy is only to be found in the action of the legislature, it imposes on me the duty of again submitting to you the propriety of passing a law providing for the safe-keeping of the public moneys, and especially to ask that its use for private purposes by any officers intrusted with it, may be declared to be a felony, punishable with penalties proportioned to the magnitude of the offence.

These circumstances, added to known defects in the existing laws, and unusual derangement in the general operations of trade, have, during the last three years, much increased the difficulties attendant on the collection, keeping, and disbursement of the revenue, and called forth corresponding exertions from those having them in charge. Happily these have been successful beyond expectation. Vast sums have been collected and disbursed by the several departments with unexpected cheapness and ease; transfers have been readily made in every part of the Union, however distant; and defalcations have been far less than might have been anticipated, from the absence of adequate legal restraints. Since the officers of the Treasury and Post Office Departments were charged with the custody of most of the public

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moneys received by them, there have been collected sixty-six millions of dollars, and, excluding the case of the late collector of New York, the aggregate amount of losses sustained in the collection cannot, it is believed, exceed sixty thousand dollars. The defalcation of the late collector at that city, of the extent and circumstances of which Congress has been fully informed, ran through all the modes of keeping the public money that have been hitherto in use, and was distinguished by an aggravated disregard of duty, that broke through the restraints of every system, and cannot therefore be usefully referred to as a test of the comparative safety of either. Additional information will also be furnished by the report of the Secretary of the Treasury, in reply to a call made upon that officer by the House of Representatives at the last session, requiring detailed information on the subjects of defaults by public officers or agents under each administration, from 1789 to 1837. This document will be submitted to you in a few days. The general results, (independent of the post office, which is kept separately, and will be stated by itself,) so far as they bear upon this subject, are, that the losses which have been and are likely to be sustained, by any class of agents, have been the greatest by banks, including, as required in the resolution, their depreciated paper received for public dues; that the next largest have been by disbursing officers, and the least by collectors and receivers. If the losses on duty bonds are included, they alone will be three-fold those by both collectors and receivers. Our whole experience, therefore, furnishes the strongest evidence that the desired legislation of Congress is alone wanting to insure in those operations the highest degree of security and facility. Such also appears to have been the experience of other nations. From the results of inquiries made by the Secretary of the Treasury in regard to the practice among them, I am enabled to state that in twenty-two out of twenty-seven foreign Governments, from which undoubted information has been obtained, the public moneys are kept in charge of the public officers. This concurrence of opinion in favor of that system is perhaps as great as exists on any question of internal administration.

In the modes of business and official restraints on disbursing officers, no legal change was produced by the suspension of specie payments. The report last referred to will be found to contain also much useful information in relation to this subject.

I have heretofore assigned to Congress my reasons for believing that the establishment of an independent national treasury, as contemplated by the constitution, is necessary to the safe action of the Federal Government. The suspension of specie payments in 1837, by the banks having the custody of the public money, showed in so alarming a degree our dependence on those institutions for the performance of duties required by law, that I then recommended the entire dissolution of that connection. This recommendation has been subjected, as I desired it should be, to severe scrutiny and animated discussion; and I allow myself to believe that, notwithstanding the natural diversities of opinion which may be anticipated on all subjects involving such important considerations, it has secured in its favor as general a concurrence of public sentiment as could be expected on one of such magnitude.

Recent events have also continued to develop new objections to such a connection. Seldom is any bank, under the existing system and practice, able to

meet, on demand, all its liabilities for deposits and notes in circulation. It maintains specie payments, and transacts a profitable business, only by the confidence of the public in its solvency; and whenever this is destroyed, the demands of its depositors and note holders—pressed more rapidly than it can make collections from its debtors—force it to stop payment. This loss of confidence, with its consequences, occurred in 1837, and afforded the apology of the banks for their suspension. The public then acquiesced in the validity of the excuse; and, while the State legislatures did not exact from them their forfeited charters, Congress, in accordance with the recommendation of the Executive, allowed them time to pay over the public money they held, although compelled to issue treasury notes to supply the deficiency thus created.

It now appears that there are other motives than want of public confidence, under which the banks seek to justify themselves in a refusal to meet their obligations. Scarcely were the country and Government relieved, in a degree, from the difficulties occasioned by the general suspension of 1837, when a partial one, occurring within thirty months of the former, produced new and serious embarrassments, though it had no palliation in such circumstances as were alleged in justification of that which had previously taken place. There was nothing in the condition of the country to endanger a well-managed banking institution; commerce was deranged by no foreign war; every branch of manufacturing industry was crowned with rich rewards; and the more than usual abundance of our harvests, after supplying our domestic wants, had left our granaries and storehouses filled with a surplus for exportation. It is in the midst of this, that an irredeemable and depreciated paper currency is entailed upon the people by a large portion of the banks. They are not driven to it by the exhibition of a loss of public confidence, or of a sudden pressure from their depositors or note-holders, but they excuse themselves by alleging that the current of business, and exchange with foreign countries, which draws the precious metals from their vaults, would require, in order to meet it, a larger curtailment of their loans to a comparatively small portion of the community, than it will be convenient for them to bear, or perhaps safe for the banks to exact. The plea has ceased to be of necessity. Convenience and policy are now deemed sufficient to warrant these institutions in disregarding their solemn obligations. Such conduct is not merely an injury to individual creditors, but it is a wrong to the whole community, from whose liberality they had most valuable privileges—whose rights they violate, whose business they derange, and the value of whose property they render unstable and insecure. It must be evident that this new ground for bank suspensions, in reference to which their action is not only disconnected with, but wholly independent of, that of the public, gives a character to their suspensions more alarming than any which they exhibited before, and greatly increases the impropriety of relying on the banks in the transactions of the Government.

A large and highly respectable portion of our banking institutions are, it affords me unfeigned pleasure to state, exempted from all blame on account of this second delinquency. They have, to their great credit, not only continued to meet their engagements, but have even repudiated the grounds of suspension now resorted to. It is only by such a course that the confidence and good-will of the community can be pre-

served, and, in the sequel, the best interests of the institutions themselves promoted.

New dangers to the banks are also daily disclosed from the extension of that system of extravagant credit of which they are the pillars. Formerly our foreign commerce was principally founded on an exchange of commodities, including the precious metals, and leaving in its transactions but little foreign debt. Such is not now the case. Aided by the facilities afforded by the banks, mere credit has become too commonly the basis of trade. Many of the banks themselves, not content with largely stimulating this system among others, have usurped the business, while they impair the stability, of the mercantile community: they have become borrowers, instead of lenders; they establish their agencies abroad; they deal largely in stocks and merchandise; they encourage the issue of State securities, until the foreign market is glutted with them; and, unsatisfied with the legitimate use of their own capital and the exercise of their lawful privileges, they raise, by large loans, additional means for every variety of speculation. The disasters attendant on this deviation from the former course of business in this country are now shared alike by banks and individuals, to an extent of which there is perhaps no previous example in the annals of our country. So long as a willingness of the foreign lender, and a sufficient export of our productions to meet any necessary partial payments, leave the flow of credit undisturbed, all appears to be prosperous; but, as soon as it is checked by any hesitation abroad, or by an inability to make payment there in our productions, the evils of the system are disclosed. The paper currency, which might serve for domestic purposes, is useless to pay the debt due in Europe. Gold and silver are therefore drawn, in exchange for their notes, from the banks. To keep up their supply of coin, these institutions are obliged to call upon their own debtors, who pay them principally in their own notes, which are as unavailable to them as they are to the merchants to meet the foreign demand. The calls of the banks, therefore, in such emergencies, of necessity exceed that demand, and produce a corresponding curtailment of their accommodations and of the currency, at the very moment when the state of trade renders it most inconvenient to be borne. The intensity of this pressure on the community is in proportion to the previous liberality of credit, and consequent expansion of the currency; forced sales of property are made at the time when the means of purchasing are most reduced, and the worst calamities to individuals are only at last arrested by an open violation of their obligations by the banks, a refusal to pay specie for their notes, and an imposition upon the community of a fluctuating and depreciated currency.

These consequences are inherent in the present system. They are not influenced by the banks being large or small, created by National or State governments. They are the results of the irresistible laws of trade and credit. In the recent events which have so strikingly illustrated the certain effects of these laws, we have seen the bank of the largest capital in the Union, established under a national charter, and lately strengthened, as we were authoritatively informed, by exchanging that for a State charter, with new and unusual privileges—in a condition too, as it was said, of entire soundness and great prosperity—not merely unable to resist these effects, but the first to yield to them.

Nor is it to be overlooked that there exists a chain

of necessary dependence among these institutions, which obliges them, to a great extent, to follow the course of others, notwithstanding its injustice to their own immediate creditors, or injury to the particular community in which they were placed. This dependence of a bank, which is in proportion to the extent of its debts for circulation and deposits, is not merely on others in its own vicinity, but on all those which connect it with the centre of trade. Distant banks may fail, without seriously affecting those in our principal commercial cities; but the failure of the latter is felt at the extremities of the Union. The suspension at New York, in 1837, was everywhere, with very few exceptions, followed, as soon as it was known: that recently at Philadelphia immediately affected the banks of the south and west in a similar manner. This dependence of our whole banking system on the institutions in a few large cities, is not found in the laws of their organization, but in those of trade and exchange. The banks at that centre to which currency flows, and where it is required in payments for merchandise, hold the power of controlling those in regions whence it comes, while the latter possess no means of restraining them; so that the value of individual property, and the prosperity of trade, through the whole interior of the country, are made to depend on the good or bad management of the banking institutions in the great seats of trade on the seaboard.

But this chain of dependence does not stop here. It does not terminate at Philadelphia or New York. It reaches across the ocean, and ends in London, the centre of the credit system. The same laws of trade, which give to the banks in our principal cities power over the whole banking system of the United States, subject the former, in their turn, to the money power in Great Britain. It is not denied that the suspension of the New York banks in 1837, which was followed in quick succession throughout the Union, was produced by an application of that power; and it is now alleged, in extenuation of the present condition of so large a portion of our banks, that their embarrassments have arisen from the same cause.

From this influence they cannot now entirely escape, for it has its origin in the credit currencies of the two countries; it is strengthened by the current of trade and exchange, which centres in London, and is rendered almost irresistible by the large debts contracted there by our merchants, our banks, and our states. It is thus that an introduction of a new bank into the most distant of our villages, places the business of that village within the influence of the money power in England. It is thus that every new debt which we contract in that country, seriously affects our own currency, and extends over the pursuits of our own citizens its powerful influence. We cannot escape from this by making new banks, great or small, State or National. The same chains which bind those now existing to the centre of this system of paper credit, must equally fetter every similar institution we create. It is only by the extent to which this system has been pushed of late, that we have been made fully aware of its irresistible tendency to subject our own banks and currency, to a vast controlling power in a foreign land; and it adds a new argument to those which illustrate their precarious situation. Endangered in the first place by their own mismanagement, and again by the conduct of every institution which connects them with the centre of trade in our own country, they are yet subjected, beyond all this, to the effect of whatever meas-

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ures policy, necessity or caprice, may induce those who control the credits of England to resort to. I mean not to comment upon these measures present or past, and much less to discourage the prosecution of fair commercial dealing between the two countries, based on reciprocal benefits; but it having now been made manifest that the power of inflicting these and similar injuries, is, by the resistless law of a credit currency and credit trade, especially capable of extending their consequences through all the ramifications of our banking system, and by that means indirectly obtaining, particularly when our banks are used as depositories of the public moneys, a dangerous political influence in the United States, I have deemed it my duty to bring the subject to your notice, and ask for it your serious consideration.

Is an argument required beyond the exposition of these facts, to show the impropriety of using our banking institutions as depositories of the public money? Can we venture not only to encounter the risk of their individual and mutual mismanagement, but, at the same time, to place our foreign and domestic policy entirely under the control of foreign moneyed interest? To do so is to impair the independence of our Government, as the present credit system has already impaired the independence of our banks. It is to submit all its important operations, whether of peace or war, to be controlled or thwarted at first by our own banks, and then by a power abroad greater than themselves. I cannot bring myself to depict the humiliation to which this Government and people might be sooner or later reduced, if the means for defending their rights are to be made dependent upon those who may have the most powerful of motives to impair them.

Nor is it only in reference to the effect of this state of things on the independence of our Government or of our banks, that the subject presents itself for consideration; it is to be viewed also in its relations to the general trade of our country. The time is not long past when a deficiency of foreign crops was thought to afford a profitable market for the surplus of our industry; but now we await with feverish anxiety the news of the English harvest, not so much from motives of commendable sympathy, but fearful lest its anticipated failure should narrow the field of credit there. Does not this speak volumes to the patriot? Can a system be beneficent, wise, or just, which creates greater anxiety for interests dependent on foreign credit, than for the general prosperity of our own country, and the profitable exportation of the surplus produce of our labor?

The circumstances to which I have thus adverted appear to me to afford weighty reasons, developed by late events, to be added to those which I have on former occasions offered, when submitting to your better knowledge and discernment the propriety of separating the custody of the public money from banking institutions. Nor has any thing occurred to lessen, in my opinion, the force of what has been heretofore urged. The only ground on which that custody can be desired by the banks is the profitable use which they make of the money. Such use would be regarded in individuals as a breach of trust, or a crime of great magnitude, and yet it may be reasonably doubted whether, first and last, it is not attended with more mischievous consequences when permitted to the former than to the latter. The practice of permitting the public money to be used by its keepers, as here, is believed to be peculiar to this country, and to exist scarcely anywhere else. To procure it

here, improper influences are appealed to; unwise connections are established between the Government and vast numbers of powerful State institutions; other motives than the public good are brought to bear both on the Executive and legislative departments, and selfish combinations, leading to special legislation, are formed. It is made the interest of banking institutions and their stockholders throughout the Union, to use their exertions for the increase of taxation and the accumulation of a surplus revenue; and, while an excuse is afforded, the means are furnished for those excessive issues which lead to extravagant trading and speculation, and are the forerunners of a vast debt abroad, and a suspension of the banks at home.

Impressed, therefore, as I am, with the propriety of the funds of the Government being withdrawn from the private use of either banks or individuals, and the public money kept by duly appointed public agents; and believing, as I do, that such also is the judgment which discussion, reflection, and experience have produced on the public mind, I leave the subject with you. It is, at all events, essential to the interests of the community and the business of the government that a decision should be made.

Most of the arguments that dissuade us from employing banks in the custody and disbursement of the public money, apply with equal force to the receipt of their notes of public dues. The difference is only in form. In one instance the Government is a creditor for its deposits, and in the other for the notes it holds. They afford the same opportunity for using the public moneys, and equally lead to all the evils attendant upon it, since a bank can as safely extend its discounts on a deposit of its notes in the hands of a public officer, as on one made in its own vaults. On the other hand, it would give to the Government no greater security, for in case of failure the claim of the noteholder would be no better than that of a depositor.

I am aware that the danger of inconvenience to the public, and unreasonable pressure upon sound banks, have been urged as objections to requiring the payment of the revenue in gold and silver. These objections have been greatly exaggerated. From the best estimates, we may safely fix the amount of specie in the country at eighty-five millions of dollars, and the portion of that which would be employed at any one time in the receipts and disbursements of the government, even if the proposed change were made at once, would not, it is now, after fuller investigation, believed, exceed four or five millions. If the change were gradual, several years would elapse before that sum would be required, with annual opportunities in the mean time to alter the law, should experience prove it to be oppressive or inconvenient. The portions of the community on whose business the change would immediately operate, are comparatively small, nor is it believed that its effect would be in the least unjust or injurious to them.

In the payment of duties which constitute by far the greater portion of the revenue, a very large proportion is derived from foreign commission houses and agents of foreign manufacturers, who sell the goods consigned to them, generally, at auction, and, after paying the duties out of the avails, remit the rest abroad in specie, or its equivalent. That the amount of duties should, in such cases, be also retained in specie can hardly be made a matter of complaint. Our own importing merchants, by whom the residue of the duties is paid, are not only peculiarly

interested in maintaining a sound currency, which the measure in question will especially promote, but are, from the nature of their dealings, best able to know when the specie will be needed, and to procure it with the least difficulty or sacrifice. Residing, too, almost universally in places where the revenue is received and where the drafts used by the Government for its disbursements must concentrate, they have every opportunity to obtain and use them in place of specie, should it be for their interest or convenience. Of the number of these drafts, and the facilities they may afford, as well as of the rapidity with which the public funds are drawn and disbursed, an idea may be formed from the fact, that of nearly twenty millions of dollars paid to collectors and receivers during the present year, the average amount in their hands at any one time, has not exceeded a million and a half; and of the fifteen millions received by the collector of New York alone during the present year, the average amount held by him subject to draft during each week, has been less than half a million.

The ease and safety of the operations of the treasury in keeping the public money, are promoted by the application of its own drafts to the public dues. The objection arising from having them too long outstanding might be obviated, and they yet made to afford to merchants and banks holding them an equivalent for specie, and in that way greatly lessen the amount actually required. Still less inconvenience will attend the requirement of specie in purchases of public lands. Such purchases, except when made on speculation, are, in general, but single transactions, rarely repeated by the same person;—and it is a fact that for the last year and a half, during which the notes of sound banks have been received, more than a moiety of these payments has been voluntarily made in specie, being a larger proportion than would have been required in three years under the graduation proposed.

It is moreover a principle, than which none is better settled by experience, that the supply of the precious metals will always be found adequate to the uses for which they are required. They abound in countries where no other currency is allowed. In our own States where small notes are excluded, gold and silver supply their place. When driven to their hiding places by bank suspensions, a little firmness in the community soon restores them in a sufficient quantity for ordinary purposes. Postage and other public dues have been collected in coin, without serious inconvenience, even in States where a depreciated paper currency has existed for years, and this with the aid of treasury notes for a part of the time, was done without interruption during the suspension of 1837. At the present moment, the receipts and disbursements of the Government are made in legal currency in the largest portion of the Union—no one suggests a departure from this rule; and if it can now be successfully carried out, it will be surely attended with even less difficulty when bank notes are again redeemed in specie.

Indeed I cannot think that a serious objection would anywhere be raised to the receipt and payment of gold and silver in all public transactions, were it not from an apprehension that the surplus in the treasury might withdraw a large portion of it from circulation, and lock it up unprofitably in the public vaults. It would not, in my opinion, be difficult to prevent such an inconvenience from occurring; but the authentic statements which I have already

submitted to you in regard to the actual amount in the public treasury, at any one time during the period embraced in them, and the little probability of a different state of the treasury for at least some years to come, seem to render it unnecessary to dwell upon it. Congress, moreover, as I have before observed, will in every year have an opportunity to guard against it, should the occurrence of any circumstances lead us to apprehend injury from this source. Viewing the subject in all its aspects, I cannot believe that any period will be more auspicious than the present for the adoption of all measures necessary to maintain the sanctity of our own engagements, and to aid in securing to the community that abundant supply of the precious metals which adds so much to their prosperity, and gives such increased stability to all their dealings.

In a country so commercial as ours, banks in some form will probably always exist; but this serves only to render it the more incumbent on us, notwithstanding the discouragements of the past, to strive in our respective stations to mitigate the evils they produce—to take from them, as rapidly as the obligations of public faith and a careful consideration of the immediate interests of the community will permit, the unjust character of monopolies; to check, so far as may be practicable, by prudent legislation, those temptations of interest, and those opportunities for their dangerous indulgence, which beset them on every side, and to confine them strictly to the performance of their paramount duty, that of aiding the operations of commerce, rather than consulting their own exclusive advantage. These and other salutary reforms may, it is believed, be accomplished without the violation of any of the great principles of the social compact, the observance of which is indispensable to its existence, or interfering in any way with the useful and profitable employment of real capital.

Institutions so framed have existed and still exist elsewhere, giving to commercial intercourse all necessary facilities, without inflating or depreciating the currency, or stimulating speculation. Thus accomplishing their legitimate ends, they have gained the surest guarantee for their protection and encouragement in the good will of the community. Among a people so just as ours, the same results could not fail to attend a similar course. The direct supervision of the banks belongs, from the nature of our Government, to the States who authorize them. It is to their legislatures that the people must mainly look for action on that subject. But as the conduct of the Federal Government, in the management of its revenue, has also a powerful though less immediate influence upon them, it becomes our duty to see that a proper direction is given to it. While the keeping of the public revenue in a separate and independent treasury, and of collecting it in gold and silver, will have a salutary influence on the system of paper credit with which all banks are connected, and thus aid those that are sound and well managed, it will at the same time sensibly check such as are otherwise, by at once withholding the means of extravagance afforded by the public funds, and restraining them from excessive issues of notes which they would be constantly called upon to redeem.

I am aware it has been urged that this control may be best attained and exerted by means of a national bank. The constitutional objections which I am well known to entertain, would prevent me in any event from proposing or assenting to that remedy, but in addition to this, I cannot, after past expe-

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*The President's Message.*

[DECEMBER, 1889.]

rience, bring myself to think that it can any longer be extensively regarded as effective for such a purpose. The history of the late national bank, through all its mutations, shows that it was not so. On the contrary it may, after a careful consideration of the subject, be, I think, safely stated, that at every period of banking excess it took the lead; that in 1817, and 1818, in 1823, in 1831, and in 1834, its vast expansions, followed by distressing contractions, led to those of the State institutions. It swelled and maddened the tides of the banking system, but seldom allayed or safely directed them. At a few periods only was a salutary control exercised, but an eager desire, on the contrary, exhibited for profit in the first place; and if, afterwards, its measures were severe towards other institutions, it was because its own safety compelled it to adopt them. It did not differ from them in principle or in form; its measures emanated from the same spirit of gain; it felt the same temptation to over-issues; it suffered from, and was totally unable to avert, those inevitable laws of trade, by which it was itself affected equally with them; and at least on one occasion, at an early day, it was saved only by extraordinary exertions, from the same fate that attended the weakest institution it professed to supervise. In 1837 it failed, equally with others, in redeeming its notes, though the two years allowed by its charter for that purpose had not expired, a large amount of which remains to the present time outstanding. It is true, that having so vast a capital, and strengthened by the use of all the revenues of the Government, it possessed more power; but while it was itself, by that circumstance, freed from the control which all banks require, its paramount object and inducement were left the same—to make the most for its stockholders, not to regulate the currency of the country. Nor has it, as far as we are advised, been found to be greatly otherwise elsewhere. The national character given to the Bank of England has not prevented excessive fluctuations in their currency, and it proved unable to keep off a suspension of specie payments, which lasted for nearly a quarter of a century. And why should we expect it to be otherwise? A national institution, though deriving its charter from a different source than the State banks, is yet constituted upon the same principles; is conducted by men equally exposed to temptation; and is liable to the same disasters, with the additional disadvantage that its magnitude occasions an extent of confusion and distress which the mismanagement of smaller institutions could not produce. It can scarcely be doubted that the recent suspension of the United States Bank of Pennsylvania, of which the effects are felt not in that State, but over half the Union, had its origin in a course of business commenced while it was a national institution; and there is no good reason for supposing that the same consequences would not have followed had it still derived its powers from the General Government. It is in vain, when the influences and impulses are the same, to look for a difference in conduct or results. By such creations we do, therefore, but increase the mass of paper credit and paper currency, without checking their attending evils and fluctuations. The extent of power and the efficiency of organization which we give, so far from being beneficial, are in practice positively injurious. They strengthen the chain of dependence throughout the Union, subject all parts more certainly, to common disaster, and bind every bank more effectually, in the first instance, to those of our commercial cities,

and in the end, to a foreign power. In a word, I cannot but believe that, with the full understanding of the operations of our banking system which experience has produced, public sentiment is not less opposed to the creation of a national bank for purposes connected with currency and commerce, than for those connected with the fiscal operations of the Government.

Yet the commerce and currency of the country are suffering evils from the operations of the State banks, which cannot and ought not to be overlooked. By their means, we have been flooded with a depreciated paper, which it was evidently the design of the framers of the constitution to prevent, when they required Congress to "coin money and regulate the value of foreign coins" and when they forbade the states "to coin money, emit bills of credit, make any thing but gold and silver a tender in payment of debts," or "pass any law impairing the obligation of contracts." If they did not guard more explicitly against the present state of things, it was because they could not have anticipated that the few banks then existing were to swell to an extent which would expel to so great a degree the gold and silver, for which they had provided, from the channels of circulation, and fill them with a currency that defeats the objects they had in view. The remedy for this must chiefly rest with the States from whose legislation it has sprung. No good that might accrue in a particular case from the exercise of powers, not obviously conferred on the Federal Government, would authorize its interference, or justify a course that might, in the slightest degree, increase at the expense of the States the power of the Federal Government authorities—nor do I doubt that the States will apply the remedy. Within the last few years, events have appealed to them too strongly to be disregarded. They have seen that the constitution, though theoretically adhered to, is subverted in practice: that while on the statute books there is no legal tender but gold and silver, no law impairing the obligations of contracts, yet that, in point of fact, the privileges conferred on banking corporations have made their notes the currency of the country; that the obligations imposed by these notes are violated under the impulses of interest or convenience; and that the number and power of the persons connected with these corporations, or placed under their influence, give them a fearful weight when their interest is in opposition to the spirit of the constitution and laws. To the people it is immaterial whether these results are produced by open violations of the latter, or by the workings of a system of which the result is the same. An inflexible execution even of the existing statutes of most of the States, would redress many evils now endured; would effectually show the banks the dangers of mismanagement, which impunity encourages them to repeat; and would teach all corporations the useful lesson that they are the subjects of the law, and the servants of the people. What is still wanting to effect these objects must be sought in additional legislation; or, if that be inadequate, in such further constitutional grants or restrictions as may bring us back into the path from which we have so widely wandered.

In the mean time, it is the duty of the General Government to co-operate with the States, by a wise exercise of its constitutional powers, and the enforcement of its existing laws. The extent to which it may do so by further enactments, I have already adverted to, and the wisdom of Congress may enlarge them. But, above all, it is incumbent upon us

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*The President's Message.*

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to hold erect the principles of morality and law, constantly executing our own contracts in accordance with the provisions of the constitution, and thus serving as a rallying point by which our whole country may be brought to that safe and honored standard.

Our people will not long be insensible to the extent of the burdens entailed upon them by the false system that has been operating on their sanguine, energetic, and industrious character; nor to the means necessary to extricate themselves from these embarrassments. The weight which presses upon a large portion of the people and the States, is an enormous debt, foreign and domestic. The foreign debt of our States, corporations, and men of business, can scarcely be less than two hundred millions of dollars, requiring more than ten millions of dollars a year to pay the interest. This sum has to be paid out of the exports of the country, and must of necessity cut off imports to that extent, or plunge the country more deeply in debt from year to year. It is easy to see that the increase of this foreign debt must augment the annual demand on the exports to pay the interest, and to the same extent diminish the imports; and in proportion to the enlargement of the foreign debt and the consequent increase of interest, must be the decrease of the import trade. In lieu of the comforts which it now brings us, we might have our gigantic banking institutions, and splendid, but, in many instances, profitless, railroads and canals, absorbing to a great extent, in interest upon the capital borrowed to construct them, the surplus fruits of national industry for years to come, and securing to posterity no adequate return for the comforts which the labors of their hands might otherwise have secured. It is not by the increase of this debt that relief is to be sought, but in its diminution. Upon this point, there is, I am happy to say, hope before us; not so much in the return of confidence abroad, which will enable the States to borrow more money, as in a change of public feeling at home, which prompts our people to pause in their career, and think of the means by which debts are to be paid before they are contracted. If we would escape embarrassment, public and private, we must cease to run in debt, except for objects of necessity, or such as will yield a certain return. Let the faith of the States, corporations, and individuals, already pledged, be kept with the most punctilious regard. It is due to our national character, as well as to justice, that this should, on the part of each, be a fixed principle of conduct. But it behooves us all to be more chary in pledging it hereafter. By ceasing to run in debt, and applying the surplus of our crops and incomes to the discharge of existing obligations, buying less and selling more, and managing all affairs, public and private, with strict economy and frugality, we shall see our country soon recover from a temporary depression, arising not from natural and permanent causes, but from those I have enumerated, and advance with renewed vigor in her career of prosperity.

Fortunately for us, at this moment, when the balance of trade is greatly against us, and the difficulty of meeting it enhanced by the disturbed state of our money affairs, the bounties of Providence have come to relieve us from the consequences of past errors. A faithful application of the immense results of the labors of the last season, will afford partial relief for the present, and perseverance in the same course will, in due season, accomplish the rest. We have had full experience, in times past, of the extraordinary results which can, in this respect, be brought

about in a short period, by the united and well-directed efforts of a community like ours. Our surplus profits, the energy and industry of our population, and the wonderful advantages which Providence has bestowed upon our country, in its climate, its various productions, indispensable to other nations, will, in due time, afford abundant means to perfect the most useful of those objects, for which the States have been plunging themselves of late in embarrassment and debt, without imposing on ourselves or our children such fearful burdens.

But let it be indelibly engraved on our minds, that relief is not to be found in expedients. Indebtedness cannot be lessened by borrowing more money, or by changing the form of the debt. The balance of trade is not to be turned in our favor by creating new demands upon us abroad. Our currency cannot be improved by the creation of new banks or more issues from those which now exist. Although these devices sometimes appear to give temporary relief, they almost invariably aggravate the evil in the end. It is only by retrenchment and reform, by curtailing public and private expenditures, by paying our debts, and by reforming our banking system, that we are to expect effectual relief, security for the future, and an enduring prosperity. In shaping the institutions and policy of the General Government so as to promote, as far as it can with its limited powers, these important ends, you may rely on my most cordial co-operation.

That there should have been, in the progress of recent events, doubts in many quarters, and in some a heated opposition to every change, cannot surprise us. Doubts are properly attendant on all reform; and it is peculiarly in the nature of such abuses as we are now encountering, to seek to perpetuate their power by means of the influence they have been permitted to acquire. It is their result, if not their object, to gain for the few an ascendancy over the many, by securing to them a monopoly of the currency, the medium through which most of the wants of mankind are supplied—to produce throughout society a chain of dependence which leads all classes to look to privileged associations for the means of speculation and extravagance—to nourish in preference to the manly virtues which give dignity to human nature, a craving desire for luxurious enjoyment and sudden wealth, which renders those who seek them dependent on those who supply them—to substitute for republican simplicity and economical habits, a sickly appetite for effeminate indulgence, and an imitation of that reckless extravagance which impoverished and enslaved the industrious people of foreign lands; and at last, to fix upon us, instead of those equal political rights, the acquisition of which was alike the object and supposed reward of our revolutionary struggle, a system of exclusive privileges conferred by partial legislation.

To remove the influences which had thus gradually grown up among us—to deprive them of their deceptive advantages—to test them by the light of wisdom and truth—to oppose the force which they concentrate in their support—all this was necessarily the work of time, even among a people so enlightened and pure as that of the United States. In most other countries, perhaps, it could only be accomplished through that series of revolutionary movements, which are too often found necessary to effect any great and radical reform; but it is the crowning merit of our institutions, that they create and nourish in the vast majority of our people, a disposition and



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*Assumption of State Debts.*

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a power peaceably to remedy abuses which have elsewhere caused the effusion of rivers of blood, and the sacrifice of thousands of the human race.

The result thus far is most honorable to the self-denial, the intelligence, and the patriotism of our citizens; it justifies the confident hope that they will carry through the reform which has been so well begun, and that they will go still further than they have yet gone in illustrating the important truth, that a people as free and enlightened as ours, will, whenever it becomes necessary, show themselves to be indeed capable of self-government, by voluntarily adopting appropriate remedies for every abuse, and submitting to temporary sacrifices, however great, to insure their permanent welfare.

My own exertions for the furtherance of these desirable objects have been bestowed, throughout my official career, with a zeal that is nourished by ardent wishes for the welfare of my country, and by an unlimited reliance on the wisdom that marks its ultimate decision on all great and controverted questions. Impressed with the solemn obligations imposed upon me by the constitution, desirous also of laying before my fellow-citizens, with whose confidence and support I have been so highly honored, such measures as appear to me conducive to their prosperity—and anxious to submit to their fullest consideration the grounds upon which my opinions are formed, I have on this, as on preceding occasions, freely offered my views on those points of domestic policy that seem, at the present time, most prominently to require the action of the Government. I know that they will receive from Congress that full and able consideration which the importance of the subjects merits, and I can repeat the assurance heretofore made, that I shall cheerfully and readily co-operate with you in every measure that will tend to promote the welfare of the Union.

M. VAN BUREN.

WASHINGTON, December 2, 1839.

When the Message was read, Mr. ALLEN rose and said:

Mr. PRESIDENT: Courtesy has, I am aware, made it the custom for the Senator representing the State from which the President comes, and agreeing with him in his political sentiments, to move the printing of his annual Message; yet the Senator from New York will, I believe, excuse the deep feeling which prompts me thus to rise, and in the exultation of renewed hope, excited by this paper, for the future security of our institutions and welfare of the people, submit that motion myself.

If, standing in this place, the friend of all, the enemy of none, I may be allowed to address a single request to the whole body of my countrymen, it is, that each man of them will deliberately consider this Message, and that part of it, especially, which relates to corporations, banks, and the currency.

To guarantee forever the rights, the happiness of individual man—to protect the feeble against the rapacity of the strong—the whole against the combinations of the parts, by an equal distribution of burdens and of blessings among all—was the cardinal object of our civil institutions. But, notwithstanding this, these rights have been violated—this happiness

perilled—this rapacity allowed—these combinations formed—and this equality destroyed. These things have been done, and that, too, under the authority of law. Corporations innumerable freckle the face of the land. Corporations which, not content with absolute power over the currency—over the property—over the labor of the entire people, now seek to render themselves immortal, and their dominion complete, by political associations. Hence has arisen the paper system, with all its complexity of fraud and oppression; hence the pending strife between man and monopoly; and hence it is that the world now beholds this nation struggling, like the fabled Laocoon, to disengage its own body, and the bodies of its sons, from the fatal coil of the serpent, whose convulsive energies have compressed those bodies well nigh unto death.

When, in 1837, after the universal crash of the banking system, the President recommended its severance from the Government, and the Government's restoration to its ancient policy, the people, unprepared alike for the ruin around them, or the remedy proposed, remained, for a moment, equally confounded by both. State after State reeled from its perpendicular and slid from its support; politician after politician fled for safety or for succor to the arms of his foes; yet he, almost alone, amidst the general consternation, amidst the desertions of the venal and the shrieks of the timid, stood unappalled—confiding, as he ever has, does, and ever will, in that "sober second thought" of his countrymen which is "never wrong, and always efficient." And now, sir, sustained by the matured judgment of a grateful people—grateful to him, because he was faithful to them—faithful, even at a time when that very fidelity was at the hazard of their displeasure—the President presents again to his fellow-citizens a chart of principles, by which, if with skill we steer this our political ark, freighted as it is with our hopes and our destinies, it will bear us onward in safety and in peace, however violent the storm of exasperated passions.

Mr. A. concluded by moving that fifteen hundred copies of the Message and documents, and five thousand additional copies of the Message, be printed for the use of the Senate.

The resolution was unanimously agreed to.

FRIDAY, December 27.

The Hon. R. M. JOHNSON, Vice President of the United States, took the chair as President of the Senate, this morning.

*Assumption of State Debts.*

Mr. BENTON also offered the following resolution:

*Resolved*, That there is nothing in the Constitution of the United States which can authorize the legislative power of the Union to assume the debts of

the States which have been contracted for local objects and State purposes.

2. That the assumption of such debts, either openly by a direct promise to pay them, or disguisedly by going security for their payment, or of creating surplus revenue, or applying the national funds to pay them, would be a gross and flagrant violation of the constitution, wholly unwarranted by the letter or spirit of that instrument, and utterly repugnant to all the objects and purposes for which the Federal Union was formed.

3. That besides its flagrant unconstitutionality, such assumption would be unjust, unwise, impolitic, and dangerous, compelling the non-indebted States to incur burdens for others, which they have refused to incur for themselves—diverting the national funds from national objects to State objects—and thereby creating a necessity for loans or taxes, or issues of Federal paper money, to supply the place of the funds so diverted—prostrating the barriers of economy, moderation, and safety, in the creation of State debts, by separating the function of contractor from that of payer of the debt—extinguishing the sense of responsibility in the contractor, and making the Federal Government the ultimate payer of all the obligations contracted by the States for their own purposes—establishing a dangerous precedent, which must soon be followed up by new debts on the part of the States, and new assumptions on the part of the Federal Government—invading their rights and mortgaging the property of posterity, and loading unborn generations with debts not their own—creating a new national debt of large amount at the start, and of a nature to perpetuate its own existence—begetting a spirit in Congress, which must constantly cater for distributions, by preventing necessary appropriations, and keeping up unnecessary taxes—laying the foundation for a new and excessive tariff of duties on foreign imports, to fall unequally on different parts of the Union, and most heavily on the planting, grain-growing, and provision-raising States, to their manifest injury, and probable great discontent—involving disastrous consequences, either to the Union itself, or to its members, as tending to the consolidation of the States, and their ultimate abject dependence on the Federal head as the fountain of their supplies, or tending to the annihilation of the Federal head itself, by stripping it of all its means of natural defence and self support, and reducing it to the helpless imbecility of the old Confederation—giving a new impulse to the delusive career of the paper system, already in a state of dangerous over-action—insuring the establishment of another National Bank—and finally, begetting a passion for periodical distributions of lands and moneys, and extensions of Federal credit, which could find no limit to its demands until the national domain was exhausted, the Federal Treasury emptied, and the credit of the Union reduced to contempt.

4. That the debts of the States being now chiefly held by foreigners, and constituting a stock in foreign markets, now greatly depreciated, any legislative attempt to obtain the assumption or securityship of the United States for their payment, or to provide for their payment out of the national funds, must have the effect of enhancing the value of that stock to the amount of a great many millions of dollars, to the enormous and undue advantage of foreign capitalists, and of jobbers and gamblers in stocks; thereby holding out inducements to foreigners to interfere in our affairs, and to bring all the influences of

a moneyed power to operate upon public opinion, upon our elections, and upon State and Federal legislation, to produce a consummation so tempting to their cupidity, and so profitable to their interest.

5. That foreign interference and foreign influence in all ages, has been the bane and curse of free Governments, and that such interference and influence is far more dangerous in the insidious intervention of the moneyed power, than in the forcible invasions of fleets and armies.

6. That to close the door at once against all application for such assumption, and to arrest at their source the vast tide of evils which would flow from it, it is necessary that the constituted authorities, without delay, shall resolve and declare their utter opposition to the proposal contained in the late London Bankers' Circular in relation to State debts, contracted for local and State purposes, and recommending to the Congress of the United States to assume, or guarantee, or provide for, the ultimate payment of said debts.

The resolution, on motion of Mr. B., was laid on the table, and ordered to be printed.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, December 27.

The SPEAKER laid before the House a letter from Hon. CHARLES FENTON MERCER, stating that he had resigned his seat in the House; which was laid on the table.

#### IN SENATE.

MONDAY, December 29.

*Oregon Territory—U. S. Title—Settlement—Pre-emption rights—Mr. Linn's Resolutions.*

The following resolutions, submitted some days since by Mr. LINN, were taken up for consideration:

*Resolved*, That it is the opinion of the Senate that the title of the United States to the Territory of Oregon is indisputable, and never will be abandoned.

*Resolved*, That the President of the United States be requested to give notice to the British Government that the conventions of 1818, and 1827, which give the right to use and occupy the Oregon Territory, its bays, rivers, harbors, &c., to both parties indiscriminately, shall cease in twelve months after such notification.

*Resolved*, That it is both expedient and proper to extend such portions of the laws of the United States over the Territory of Oregon, as may be necessary to secure the lives, liberty, and property of our citizens who may reside in said Territory.

*Resolved*, That it is expedient to raise an additional regiment of infantry, (rifles,) for the purpose of overawing and keeping in check various Indian tribes, or any foreign forces who may be in said Territory, or on its borders; and at the same time to give ample protection to our citizens engaged in legitimate occupations.

*Resolved*, That six hundred and forty acres of land should be granted to every white male inhabitant of said Territory of the age of eighteen years, who shall cultivate and use the same five consecutive years, and to his heirs at law in the event of his death.

1st SESS.]

Election of Chaplain.

[DECEMBER, 1839.]

On motion of Mr. LINN, the resolutions were referred to a Select Committee of five, and ordered to be printed.

*Circulation of Dead Notes by the Ex-Bank of the United States.*

The following resolution, offered by Mr. BENTON on Friday last, was considered and agreed to :

*Resolved*, That the President of the United States be requested to cause the proper inquiries to be made of all disbursing officers and agents, and all contractors, (the Post Office Department inclusive,) to ascertain from them whether they have sold or exchanged Government drafts or other Government funds, or their own drafts on the Government, during the years 1838 and 1839, for paper money of the following descriptions :

1. Bank notes of the late Bank of the United States, and especially notes of a less denomination than twenty dollars.

2. Bank notes of the present Bank of the United States, and especially notes of a less denomination than twenty dollars.

3. Post notes of the present Bank of the United States, and especially any of such notes of a less denomination than one hundred dollars ; also, of a less denomination than twenty dollars, and which had been made payable at more than sixty days after date, or which were not due, or which had been altered by the pen ; and if so, that they report the times and places of such sales or exchanges, and with whom made, and the amounts so sold or exchanged.

Also, that the President communicate to the Senate the name of any disbursing officer, agent, or contractor, who shall fail to answer the foregoing inquiries in a reasonable time. Also, that he communicate a list of such Treasury or Post Office drafts in favor of disbursing officers, agents, and contractors, for the years 1838 and 1839, as shall appear to have been sold, with the names of the endorers, and to whom paid ; that the Secretary of the Treasury cause inquiries to be made of the deposit banks, since the general resumption of specie payments in 1839, whether the Government drafts which have been sold by disbursing officers, agents, and contractors, have been usually paid in specie ; and if so, all the particulars as to the several sums and total amounts paid, and to whom paid, and where, as nearly as can be stated.

On submitting the above resolution, Mr. BENTON said that it implied so much, and such grave censure, that he felt himself bound to show that he was not proceeding gratuitously, and without information, but that he was in possession of facts, which justified the movement. He said that he had received information of every kind which the resolutions supposed to exist, and even that immense sums had been drawn in specie from the deposit banks by the Bank of the United States, since she stopped payment. He mentioned one instance of this kind, in which the Bank of Missouri paid ninety thousand dollars in specie to a Bank of the United States agent for a Treasury draft, which issued the day before the Bank of the United States stopped payment, and was sold to her agent

for her notes, which notes were disbursed on account of the United States, while the specie drawn from the Missouri Bank was shipped to Philadelphia, and probably thence to Europe. Mr. B. then read the following letter, as a specimen of the information he possessed :

*Memorandum of matters relating to the circulation of United States Bank notes, which came under my own observation, while acting as disbursing agent of the Government in the Cherokee country.*

Some time in the spring of the year 1838, two gentlemen arrived at the Cherokee Agency, (one of whose names, I think, was Roberts, the other's not remembered,) to whom I was introduced. They were said to be agents of the United States Bank, whose business appeared to be to exchange the notes of that Bank for Treasury drafts, or drafts from the paymasters and disbursing agents of the Government. They did make exchanges to a considerable extent, but to what amount I cannot say. They had, I understood, in their possession, a large amount of the notes of the Bank, and that they, after leaving their agency, went to Little Rock, Arkansas, on business of a similar character. One of the contractors (now in Washington) for furnishing subsistence to the emigrant Indians west, yesterday told me that an agent of the United States Bank had been at Little Rock, and that he, together with his partners, negotiated a loan with him for \$150,000, payable in six months, which, he added, would soon be due.

In the summer of the same year, I was called upon by Maj. Cha. J. Nourse, of this city, to know if I had any Treasury drafts that I wished cashed, stating that he had *old notes* of the Bank of the United States that he would give me in exchange. I replied, that I had some drafts on New York and other places, which, if he would give me notes of the *United States Bank of Pennsylvania*, I would enter into the arrangement, but that otherwise I would not, as I conceived the issue of these notes wrong, and contrary to law, and would not make myself an accessory to the wrong by circulating them. He observed that the other agents had made no objection to receiving them, and strongly urged my talking them likewise. Finding that I was not to be persuaded, we finally made an exchange, he giving me the notes of the Pennsylvania Bank. The *old notes* were generally of small denominations—tens, twenties ; the new notes were mostly of like sums, with some fifties and hundreds. The twenties and hundreds of the new issue appeared to have been struck off for post notes, made payable to order, with the word "*order*" erased, and "*John Ross or bearer*" inserted. To all appearances, Mr. Nourse had a large amount with him ; I think he said, of both kinds, something like *half a million of dollars*. He also said he thought he should go to Arkansas, to endeavor to make exchanges there.

WASHINGTON, Aug. 20, 1839.

TUESDAY, December 31.

*Election of Chaplain.*

On motion by Mr. HUBBARD, the Senate, in accordance with a resolution adopted some days since, proceeded to the election of a chaplain for the present session.

Mr. COOKMAN, having a majority on the second ballot, was declared to be duly elected.

JANUARY, 1840.]

Orders of the Day.

[26TH CONG.]

## HOUSE OF REPRESENTATIVES.

SATURDAY, January 4, 1840.

*Death of the Representative Albert Gallatin Harrison, Esq., of Missouri.*

Mr. JAMESON said: Mr. Speaker, I rise to do what I intended on yesterday to have done, but failed in obtaining the floor, before the House adjourned; that is, to announce to this House the death of the Hon. ALBERT GALLATIN HARRISON, one of the members elect from the State of Missouri, to the Twenty-sixth Congress. He died at his residence, near Fulton, Missouri, of bilious fever, in the month of September last. In his death, not only the bereaved widow and his children sustain a deep and abiding loss—the loss of an amiable, kind, and affectionate husband and parent—but Missouri lost one of her favorite and ablest sons. Always true to his trust, and faithful to the interests of Missouri, my lamented predecessor had obtained for himself a deep seat in the affections of her people. I have known the deceased since I have known myself, and many on this floor were also well acquainted with him; and they will bear me witness to the fact, that he possessed all those noble qualities and virtues which of themselves constitute the high road to honor and distinction.

He had filled with credit to himself, and to the entire satisfaction of the people, more difficult offices of honor and profit, in the same length of time, than any man who has ever resided in Missouri. He was called by Him in whose hands life and death are held, from the theatre of action, in the meridian of life; and but few have passed from time, more to be lamented than ALBERT GALLATIN HARRISON; few, if any, can fill his place as the agent or Representative of Missouri; and a void is left in that domestic circle in which he moved, and in the heart of his amiable and intelligent bereaved widow, that no power on earth, no human being can fill; a void that can only be filled by the constant presence, aid, and protection of the Spirit of the Eternal God.

Mr. HARRISON was a native of Kentucky, from whose land so many able and chivalric men have emanated; the birth-place of a great many members now on this floor from other States.

Mr. J. then offered the following resolutions:

*Resolved, unanimously,* That this House has received with deep sensibility the annunciation of the death of the Hon. ALBERT G. HARRISON, one of the late Representatives elect from the State of Missouri for the Twenty-sixth Congress of the United States.

*Resolved, unanimously,* That the members of this House tender the widow and relatives of the deceased their sympathy on this mournful event, and will testify their respect for his memory, by wearing crape on the left arm for thirty days.

*Resolved,* That, as a further evidence of their respect for the memory of the deceased, the House adjourn until Monday next, at 12 o'clock, M.

The House adjourned.

MONDAY, January 6.

*Death of the Representative J. C. Alvord, Esq.*

After the reading of the journal, Mr. W. B. CALHOUN, of Massachusetts, rose and submitted the following resolutions:

*Resolved,* That the House has heard with deep sensibility of the death of the Hon. C. ALVORD, a member elect of this House from the State of Massachusetts.

*Resolved,* That the members and officers of this House will testify their respect for the memory of the deceased by wearing crape on the left arm for thirty days.

The resolutions having been read,

Mr. CALHOUN said: I do not rise, Mr. Speaker, to give utterance to a labored eulogium upon the character of Mr. ALVORD. I rise simply to say that he was regularly elected a member of this Congress, and that he died several months anterior to the commencement of the present session. He was very young; and, had he been permitted to take his place among us, would undoubtedly have been the youngest member upon this floor. But, young as he was, he had acquired very prominent and enviable rank in the community where he resided. Heaven had given him a high order of intellect; his mind was richly cultivated; his judgment was mature; and his general attainments extraordinary. In the study and pursuit of the law—the profession to which he had devoted himself—he was eminently distinguished; as he was, also, in both of the halls of legislation in his native State. Had he lived to take part in the proceedings of this body, he would, I am sure, have added largely to his fame and renown. He died, sir, in the midst of the warmest affections, and the fondest hopes of his friends, his associates, and of the community where his lot was cast.

Such, in brief, was JAMES O. ALVORD; and never, I am confident, has the House of Representatives been called upon to pay a tribute to the memory of one more worthy.

The question was then taken on the resolutions and they were unanimously adopted.

Mr. CALHOUN moved that the House adjourn till to-morrow, which was agreed to; and

The House then adjourned.

IN SENATE.

TUESDAY, January 7.

*Orders of the Day.*

The bill for the armed occupation and settlement of that part of Florida now overrun by hostile bands of Indians, being the special order of the day, was taken up, and

Messrs. BENTON, TAPPAN, and PRESTON addressed the Senate on the provisions of the bill, when it was informally passed over.

1ST SESS.]

New Jersey Contested Election.

[JANUARY, 1840.]

## HOUSE OF REPRESENTATIVES.

TUESDAY, JANUARY 7.

*New Jersey Contested Election.*

Mr. CAMPBELL, of South Carolina, rose and said: This House, Mr. SPEAKER, has a high constitutional duty to perform. One of the States of this Union, the State of New Jersey, which is entitled to six representatives on this floor, has but one, the other five seats being, *de facto*, at this time vacant. Under these circumstances, it is our most solemn duty to determine who are entitled to these five seats. It is usual for gentlemen contesting seats here, to bring their claims before the House by petition or memorial, showing the grounds on which such claims rest. But (said Mr. C.) we have waited from day to day, since the last decision of the House on this subject, without hearing from either of the parties who came here claiming to be Representatives from New Jersey; and it being the solemn duty of the House to come to some decision on the subject, he, as chairman of the Committee of Elections, had felt bound to bring the matter before them. Mr. C. therefore moved a suspension of the rules to enable him to offer the following resolutions:

*Resolved*, That all papers or other testimony in possession of, or within the control of this House, in relation to the late election in New Jersey for Representatives in the Twenty-sixth Congress of the United States, be referred to the Committee of Elections, with instructions to inquire and report who are entitled to occupy, as members of this House, the five contested seats from that State, and that the committee have power to send for persons and papers.

*Resolved*, That a copy of this resolution be served on JOHN B. AYCRIGG, JOHN P. B. MAXWELL, WILLIAM HALSTED, CHARLES C. STRATTON, THOMAS JONES YORKE, PETER D. VROOM, PHILEMON DICKERSON, WILLIAM R. COOPER, DANIEL B. RYALL, and JOSEPH KILLE, all citizens of New Jersey, claiming to be Representatives from that State in this Congress, and that the service be made upon each gentleman personally, or by leaving a copy at his usual residence.

Mr. BELL said he had prepared some resolutions, which he wished to be read for the information of the House, that would probably supersede those proposed by the gentleman from South Carolina. He understood that there were five gentlemen still in attendance here, who had been here from the commencement of the session, who claimed the right to sit and vote as members from the State of New Jersey. He was also informed that these gentlemen exercised the franking privilege, received their daily supply of stationery, and had marked seats in the hall with their names, as members of the House. Now, such gross irregularity as this was unparalleled in the practice of the House. These gentlemen had the right to be qualified and admitted, or to be informed that they could not be so; and it was the duty of the House to decide at once either that they were or were not members. Mr. B.

said that the resolution which he was about to offer was a question of privilege, and he hoped the Chair would so decide it.

Mr. B. then sent the following resolutions to the Chair, which were read:

*Resolved*, That PHILEMON DICKERSON, PETER D. VROOM, WILLIAM R. COOPER, DAVID B. RYALL, and JOSEPH KILLE, who are in attendance, claiming to be admitted to sit and vote in this House, as Representatives from the State of New Jersey, are not and cannot be legally and constitutionally members of this body, until the regular returns, or certificates of election, granted to five other duly qualified persons by the Governor and Council of said State, in the exercise of the authority vested in them by the laws of said State, passed in conformity with the Constitution of the United States, shall have been set aside or adjudged void, upon due investigation had in the form and manner prescribed by the laws and usages of the House.

*Resolved*, That the House having decided that JOHN B. AYCRIGG, WILLIAM HALSTED, JOHN P. B. MAXWELL, CHARLES C. STRATTON, and THOMAS JONES YORKE, the persons having the regular and legal certificates of election, shall not be admitted to sit in this House and vote as other members, until it shall have established, by sufficient proof, that there was no fraud, mistake of the law, or other error, made or committed by the Governor and Council of New Jersey, in the returns or certificates of election granted as aforesaid; and said decision being contrary to the usual practice of the House in such cases, the SPEAKER be directed to notify the Governor and Council of New Jersey of the proceedings of the House in the premises, to the end that the people of the said State may be duly informed of the causes which have, for the present, deprived them of the services of five of the Representatives to which they are entitled by the laws and constitution.

*Resolved*, That the returns, and all other papers or testimony in possession of the House relating to the five vacant seats in the New Jersey delegation, be referred to the Committee of Elections; and that the said committee proceed to examine the returns and all other testimony which may be submitted to them, according to the rules and orders of the House; and that said committee first decide and report to the House who are entitled to sit and vote as members by the returns.

Mr. DUNCAN inquired whether these resolutions were in order. He offered one the other day, which was decided not to be in order, precisely similar in its terms to the first resolution of the gentleman from Tennessee.

The SPEAKER said the resolutions of the gentleman were only read for the information of the House.

Mr. VANDERPOEL asked if he understood the gentleman from Tennessee correctly, as saying that Messrs. DICKERSON, VROOM, KILLE, COOPER, and RYALL claimed their seats without a reference to the Committee of Elections.

Mr. BELL understood that these gentlemen had marked their seats on the floor, were exercising the franking privilege, and received stationery from the Clerk, all of which privileges belonged only to the members of the House. Mr. B. wanted to know whether

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*Armed Occupation of Florida.*

[28TH CONG.]

they still claimed their seats as members, or whether they had abandoned them. If they had abandoned their rights, they were liable to serious penalties for exercising the privileges they did.

Mr. RAMSEY said he should like to know whether this was a privileged motion or not; because the other day when he offered a petition from the citizens of the Third Congressional District of Pennsylvania, claiming their right to be represented here by the person they had elected, and asking an investigation into the frauds by which a person who was not lawfully a Representative (Mr. NAYLOR) had taken his seat here, it was decided that this petition could not be received without a suspension of the rules; and when the question was put on the motion to suspend them, the gentleman from Tennessee, who now raises this question of privilege, voted against the suspension.

The SPEAKER said that the motion of the gentleman from Tennessee was not, in his opinion, one of privilege. The only question of privilege arising out of this case, which would supersede the motion of the gentleman from South Carolina, would be the coming forward of the five gentlemen named, and their claiming to be sworn. Were they to come forward and claim to be sworn, the SPEAKER would consider it a question of organization, and would feel it to be his duty to decide it previous to entertaining any other question. He could not, as the gentleman from Tennessee intimated, consider this as a privileged question on the information of a gentleman rising in his place; but the members claiming their seats must of themselves come forward and ask to be sworn, and then he would consider it a question overriding all others, and would decide upon it at once. The motion of the gentleman from Tennessee, in his opinion, could not supersede that of the gentleman from South Carolina.

Mr. RICE GARLAND appealed from the decision of the Chair. Assuming the position of the Chair to be correct, he would ask by what authority did the gentleman from South Carolina offer his resolution? If Mr. DICKERSON and his associates did not come forward and claim to be sworn, what right had the gentleman from South Carolina to move to send their case to the Committee of Elections? He understood the gentleman from New York, (Mr. VANDERPOEL,) to state that these gentlemen did not now claim the right to take their seats.

Mr. VANDERPOEL asked leave to explain what he did say. The members from New Jersey, Messrs. DICKERSON and others, were disposed to submit to the expressed will of the House, in the decision made in the case of their opponents. They regarded that decision as indicative of the determination of the House to permit neither set of the contesting claimants to take their seats until an investigation by the Committee of Elections.

IN SENATE.

WEDNESDAY, JANUARY 8.

*Armed Occupation of Florida.*

The bill for the armed occupation and settlement of that part of Florida overrun by hostile bands of Indians, was taken up, and

Mr. CLAY, of Alabama, addressed the Senate as follows:

The Senator from South Carolina (Mr. PIERCE) who addressed us on yesterday, said Mr. C., now occupies a position very different from the one in which he stood, and utters sentiments very much at variance with those he seemed to entertain, about eighteen months since, when the bill making appropriations for the further prosecution of the war in Florida was under consideration. At the time referred to, he not only censured (with very few exceptions) all who were in any manner connected with the management of the war, but declared substantially, that before one cent more was appropriated for its further prosecution, an investigation ought to be instituted, as to the prodigal expenditure of the public treasure, which, he said, had already then taken place, and also as to the causes of the disgraceful failures of former efforts to subdue the enemy. Now, sir, what is the Senator's present position? He not only considers this bill wholly inefficient, and unequal to the accomplishment of the object intended by its passage, but he is now willing to vote for an army of any number,—say ten thousand—fifteen thousand—nay, the gentleman went so far, if I am not mistaken, as to profess a willingness to vote for an army of twenty thousand men; and this without any investigation, and notwithstanding all his charges and complaints of extravagance, in relation to the manner in which the war has been heretofore conducted. He (Mr. C.) was constrained to consider the views of the Senator from South Carolina, as wholly inconsistent, and irreconcilable with those which he formerly entertained and expressed. Why, sir, (said Mr. C.,) the Senator has represented to us that the expenses of the Florida war, from its commencement to the present time, amount to some twenty or twenty-five millions of dollars, which he very properly considers enormous; yet, almost in the same breath, he professes his readiness to raise an army that would exceed his highest estimate in a single year. When the Administration proposes the expenditure of more money to effectuate the objects of the war, it is all wrong; too much has already been expended; and when the Administration proposes to economize, to stay the hand of prodigality, as the Senator formerly characterized it, and pay for the conquest of the country in a small portion of the land, it is still all wrong; the measure is entirely inefficient; the gentleman would now have us pour out the public treasure, to the amount of millions, more than has ever before been expended! So frequently do the views and sen-

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timents of the Senator change that it may be well questioned whether the Administration can devise any measure that will meet his approbation.

But the Senator from South Carolina not only abuses the Administration for the manner in which the war in Florida has been directed, but also reflects censure on the military officers who have been engaged in it.

[Mr. PRESTON explained. He said directly the contrary. He had said that some of the officers had behaved with great gallantry, and instanced Generals Scott, Clinch, and perhaps General Taylor.]

Mr. CLAY resumed. He said he was aware there were some exceptions from the Senator's denunciations; but, he said, he certainly felt justified in saying the Senator from South Carolina did reflect on the conduct of some of the officers, and more particularly that of General Jesup. The gentleman alluded unfavorably to that officer's conduct in the Creek nation, and to the manner in which he had been made to supersede General Scott, and to the unfortunate results of his operations, while commanding in Florida. Mr. C. also said he recollected that the Senator had arraigned his conduct on a former occasion, and had represented it as not worthy of an American officer. Mr. C. said he would take that occasion to say of General Jesup, what the Senator himself might have known, if he had looked back into the history of those matters, that, before he left the command of the army in Florida, he had requested a court of inquiry into his conduct, which, however, was deemed unnecessary, and declined by his superiors. I will go further, (said Mr. C.,) and say that General Jesup is now willing, and at all times prepared, to defend his character and justify his conduct in that war, and, indeed, his whole military course in the South, before any court of inquiry that may be instituted here or elsewhere; or before a committee of the Senate, should the gentleman think proper to move an investigation of that character, or should the Senate think proper to appoint one for that purpose.

But the Senator from South Carolina has taken occasion to bestow much commendation on the course pursued by General Scott, and insists that, if he had not been removed from the command, in all probability, not more than another campaign would have been necessary to terminate the war. Now, (said Mr. C.,) what are the facts? Did not General Scott begin the war with what every one deemed a competent force? He had the regular troops, which had been under the command of General Clinch—the troops brought into the field by General Gaines—and, if I mistake not, had authority to call, in his own discretion, upon Georgia, Alabama, and some of the adjacent States, for any additional volunteer militia force he might deem necessary. He did have troops from both the States named, and probably from some others. The Indians were then

concentrated, or, at least, in large bodies, and, Mr. C. believed, generally ready to give battle. Mr. C. said he would not pretend to speak with much confidence as to what might or ought to have been done, under the circumstances stated; but he might be permitted to speak of results, and from them gentlemen would be able to form some opinion, as to the accuracy of the Senator from South Carolina. Gen. Scott formed his own plans, for aught Mr. C. knew, very judiciously; he marched his army through the country in various directions, exhibiting an imposing force, fighting battles whenever the occasion offered, and, no doubt, always ready to give battle; but was the enemy subdued? No—so far from the fact, or any indications of it, on the part of the Indians, they fought his volunteer troops out of the Territory at the close of the campaign, on their return march, at least those from Alabama, and Mr. C. was under the impression those from Georgia also. Yes, said Mr. C., when the volunteer regiment from Alabama were on their return to Tampa Bay, from a fort then called Alabama, (now, he believed, called Fort Foster,) about thirty miles distant, to embark for their homes, they were attacked by the Indians in great force at Clonotassassa, and fought one of the hardest battles of the whole campaign, which continued about an hour and a quarter; and, although we had a glorious victory, it resulted in the loss of many valuable lives. Such, sir, were the indications of a speedy and triumphant close of the war, at the end of the first campaign. Then what ground is there for saying that Gen. Scott (from whose reputation, as an officer, Mr. C. said he had not the slightest wish to detract) would have terminated the war in another campaign? Several campaigns, under the direction of other commanders, have since taken place, and the objects of the war have not yet been attained—consequently, when the gentleman from South Carolina insists that Gen. Scott would have accomplished those objects in one more, if he had not been recalled, he indirectly casts censure upon other officers equally skilful and meritorious. At all events, said Mr. C., let the gentleman show what would have been done by Gen. Scott, that his successors in command have not done.

Sir, said Mr. C., some allusion has been made by the Senator from South Carolina, to the conduct of the Creek war; and as I happen to know, personally, many of the circumstances under which General Jesup acted on that occasion, I feel it my duty to refer to them. If they had been fully known to his commanding General, I have little doubt they would, as they should, have called forth commendation instead of censure.

Had General Jesup been disposed to take up the line of march from Tuskegee, the headquarters of the Alabama volunteers, with any undue haste, he might have done so four or five days sooner than he did. He had a sufficient number of troops in the field to have fought



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every Creek Indian then in arms against us; he had arms, munitions, subsistence, and the means of transportation. Independent of seven or eight hundred Alabama volunteers, then under his immediate command, and a still greater number at Irwinton, he had secured the co-operation of the powerful chief Hopothle-Yoholo, with some fifteen hundred friendly warriors; and knew he would be joined on his march by an additional battalion of mounted men then on their way. His troops had been some time in camp, were in danger of becoming sickly, impatient for active service, and liable to that discontent which long delay universally produces with the best citizen soldiery. In the mean time he had ascertained from a source that merited the highest confidence, that Tuckabache-Hadjo, a popular chief, was vacillating as to his course—balancing between a union with the hostile Creeks or the whites, and that, if he had joined the enemy, he would probably carry over with him some two thousand warriors. This chief was a brother of Nea-Micco, the principal chief, who was already at the head, and encamped with a portion of the war party. Such a union was greatly to be deprecated; it would have rendered the enemy formidable indeed, and would very naturally have rallied against us much the larger portion of the fighting men in the nation. Under such a state of things, not a moment could have been justifiably lost; it became the duty of Gen. Jesup to take such steps as would strike terror into the enemy, already in the field, and deter others from augmenting his force. Fortunately for the country at large, but more especially for Alabama, Gen. Jesup promptly determined on the proper course. There were two routes leading from Tuskegee to Irwinton, whither, Mr. C. believed, Gen. Jesup was ordered to march and join Gen. Scott, the most direct of which led near the encampments of the enemy. During this march Gen. Jesup captured Neamathla, the life and soul of the war party, with his son. The celebrated chief alluded to was the master-spirit, who had raised the storm, and he alone was able to ride in and direct it. This well-timed and most fortunate capture struck terror and dismay into the hostile party, and at once terminated the war. In a few days afterwards they were all captured or subdued; the white inhabitants restored to their homes, and pursuing, in safety, their usual avocations. Suppose it had been contrary to orders, (which, however, Mr. C. denied to be the fact, so far as he was informed,) is there any Senator present who would not be ready to justify a departure from the prescribed line of march, under such circumstances, when it was certainly to be followed by such happy results? By this fortunate and prompt movement, a war, which had been commenced with one of the most powerful and warlike of the Indian tribes, was terminated without bloodshed, (after the troops were in the field,) which might otherwise have cost thousands of valuable lives, and

have been as protracted, and have cost as many millions of dollars as that with the Seminoles. Sir, said Mr. C., it was my fortune to be at the head-quarters of the Alabama troops, on the occasion referred to, and, knowing the state of things, as I did, I not only advised, but urged General Jesup to adopt the course he did; and, so far from meriting censure, his conduct entitles him to commendation and gratitude.

Mr. C. said he did not think it necessary, or proper, on this occasion, to pass on the relative merits of those two officers. Their deeds were recorded in our history, and known to their countrymen. They had both distinguished themselves in some of the hardest fought battles on our Northern frontier, during the late war with Great Britain. And he would not have made the remarks which had fallen from him, but for the wrong done to Gen. Jesup, under circumstances with which he (Mr. C.) was familiar, and because he desired that justice might be awarded to that meritorious and distinguished officer.

But, said Mr. C., the gentleman censures the Administration for the results of the Florida war. On what ground? Had the Administration been remiss in furnishing men, or the most ample means for prosecuting the war? Did any person imagine, at its commencement, that the force under General Scott was insufficient? He had, perhaps, as effective an army as any that has since been in the field. His requisitions were all met. He had regular troops and militia—infantry and artillery. He had not only those under his own command, but the unexpected aid brought into the field by the veteran, General Gaines, who had hastened to the scene of conflict, without awaiting orders, the very moment he had heard of the war-cry of the enemy; and who, it is believed by some, whose opinions are entitled to weight, would probably have terminated the contest at one blow if he had had three hundred mounted men. Who but the commanding general directed and controlled the operations of the army? Not the President—nor, Mr. C. presumed, the Secretary of War. Then, if blame is to be attached to any, in regard to the first campaign, it should not fall on the Administration.

The same, Mr. C. supposed, might be said of all the campaigns which had followed it. The Administration had sent officers of established courage, known experience, and high reputation, into the field; and had furnished men, arms, munitions, and subsistence in the greatest abundance? What more could be desired? Did such facts warrant the imputation of imbecility, impotence, or inefficiency, so far as the Administration was concerned? Mr. C. said he was willing to leave this question to be answered by the good sense and justice of the country.

One thing, Mr. C. said, was certain, that notwithstanding the many hard-fought battles—in not one of which, he believed, had there been

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a single instance of cowardice, either amongst the regular troops, or volunteer militia—notwithstanding the number of lives that had been sacrificed, and the millions that had been expended; and although we had killed, or captured and removed some three thousand Indians or more, the war was not yet over—the savage warwhoop still resounded in Florida—the unrelenting tomahawk and scalping-knife were still rioting in the blood of men, women, and children, indiscriminately; and whilst the number of the enemy had been reduced, there appeared to be no diminution of the ferocity and persevering desperation of his attacks. The plan of operations hitherto pursued, Mr. C. said, had entirely failed to bring the war to a close, nor could he see, if it should be continued, that its purposes would be accomplished in any definite period. Such doubts, uncertainty, and discouragement, were not only felt here, but, he believed, amongst our fellow-citizens everywhere; and even the officers and soldiers of the regular army were dispirited and desponding.

Mr. C. said if the Senator from South Carolina would examine the report of the Secretary of War, which accompanied the President's late annual Message, he would find that even General Taylor, who was now, and had been, commanding in Florida ever since the return of General Jesup, (and whom the Senator had landed, no doubt very justly, for his chivalry and known ability,)—yes, sir, even General Taylor despairs of success, by continuing hostilities as we have heretofore done. After a most melancholy account and gloomy detail of his operations during the last year, General Taylor adds the following remarks:

“And should the war be renewed, (*which I most sincerely hope may never be the case*), the only way to bring it to a successful issue, in my opinion, is to cover the *whole* country, so as to prevent the enemy from hunting and fishing.”

This, sir, said Mr. C., is the very language of despair. He deprecates its continuance, and *sincerely hopes it may never be renewed*. Yet, sir, all this is right as regards General Taylor, in the judgment of the Senator from South Carolina, (Mr. PRESTON.) No blame is to be ascribed to the present commanding General, but it is to the inefficiency of the measures of the Administration we are to ascribe all our failures. Now, sir, said Mr. C., while I will not cast censure upon others, with my limited means of information as to the mode of conducting the late campaign, I beg leave to invite the attention of the Senator from South Carolina, and others, to the facts as contained in the official report of the Adjutant General, with the sanction of the General “commanding-in-chief.” He said it would be found in the “Return of the army employed in Florida against the Seminole Indians, under the command of Brevet Brigadier General Zachary Taylor,” there was the following number:

Second regiment of Dragoons - 10 companies,  
Third regiment of Artillery - 9 “

First, second, sixth, and seventh regiments of Infantry,  
ten companies each, making 40 “

Aggregate of regulars - - 59

Besides Florida mounted militia - - - - 10 “

And making a grand aggregate of - - - - 69 “

[Here Mr. PRESTON asked the Senator from Alabama to give the general result in numbers.]

Mr. C. said he would readily comply with the Senator's request; and, turning to another column of the return, said 3,991, or, in round numbers, an army of 4,000 men, consisting of dragoons, mounted volunteers, infantry, and artillery. Mr. C. here asked, was this an inefficient force to fight the Seminole Indians now in Florida? He said he could not pretend to estimate the number of the enemy with accuracy, but the Senator from South Carolina had represented the number of warriors at about *three hundred*. If this calculation be correct, (said Mr. C.,) the army might have been divided into eight parts, and either would have been able to have fought successfully the entire force of the Indians; for each eighth part would have been as five hundred to three hundred. Now, it did not appear to Mr. C. that an army more than *thirteen times as strong* as the enemy to be encountered, could be regarded as a *very inefficient force*.

But, Mr. C. said, General Taylor seemed to suppose, if the war should be renewed, the only way to bring it to a successful issue, in his opinion, is to cover the *whole* country, so as to prevent the enemy from hunting and fishing. This seemed to justify an inference in favor of the plan proposed by the bill under consideration, which, though not proposing to cover the whole country literally, approached that plan as nearly as practicable, as it contemplated establishing bodies of men in all parts of the theatre of war. To cover the whole country by a standing army, Mr. C. supposed could not be intended, for if it were even as numerous as that proposed by the Senator from South Carolina, amounting to 15,000, the Territory being 45,000 square miles, there would not be more than one man to every three square miles. Nor, from the experience we had had, did Mr. C. think there would be much good done by marching an army of that number through the country. The Indians might then, and no doubt would, dispersed as they were, in small bodies, retire as our troops approached, conceal themselves in some neighboring hammock, and, thus eluding them, be as secure as ever.

But, sir, said Mr. C., whatever may be the opinion of General Taylor on this subject, there can be no doubt of the approbation of the

Secretary of War. It will be found, by reference to his report, that he gives it his express sanction. The following is the passage to which I allude :

"The passage of the bill introduced in the Senate during the last session, and partially acted upon in Congress, for the military occupation of Florida, would, it is believed, be attended with beneficial effects; and I further recommend that authority be given to the Executive to raise one thousand men, to serve during the war in Florida, who shall receive the pay of dragoons, and, upon its termination, a bounty in land. These men it is proposed to arm, and equip, and drill in a manner to render them equal to the Indian warrior in vigor and endurance, and to employ them in active operations during the ensuing winter. The exigencies of the service at this particular juncture, compel me to ask this additional force. It will be seen that the state of the Western frontier requires the forces there to be increased rather than diminished, and the condition of the Canada frontier will not allow the withdrawal of troops at present stationed there."

The Secretary not only recommends the passage of the bill, but he, at the same time, states facts which are, of themselves, a powerful argument in its favor. He says: "It will be seen that the state of the Western frontier requires the forces there to be increased rather than diminished; and the condition of the Canada frontier will not allow the withdrawal of the troops at present stationed there." Yes, sir, and he might have referred, also, to the state of the North-eastern boundary, where, in my opinion, we should also have a strong military force, prepared to act as exigencies may require. But, sir, he has said enough to show that all our regular army, not already in Florida, has sufficient employment elsewhere. Whence, then, is the Senator's army of fifteen or twenty thousand men to be drawn, admitting we were willing to increase our expenses some thirty or forty millions of dollars? Will the gentleman increase our regular army to that amount, or will he raise them from the militia? Mr. C. presumed the Senator intended from the latter, and he had no doubt it could be done. For, said Mr. C., I know the mass of our citizens, who constitute the militia, are ever ready to rally around the standard of their country whenever she needs their services, and are always brave and efficient when their operations are skillfully conducted by officers who are worthy of their confidence. But, sir, experience has demonstrated that they are the most expensive class of troops. Besides, such calls are extremely annoying and injurious to our citizens, breaking in upon their accustomed avocations and pursuits. He said they had already fallen heavily on Alabama. She had already furnished three regiments for the Florida service; and whilst it was true that, stimulated by laudable pride and patriotism, they were all volunteers—not a man having been coerced into service by draft—yet it had resulted ruinously to many of them, whose claims

for property lost in the public service were now lying in the Third Auditor's office, unadjusted and unpaid, after the lapse of nearly two years. Such treatment was calculated to cool the ardor of the most patriotic citizens, and render them less cheerful in obeying the call of their country in future emergencies. Mr. C. said the calls for citizen troops, to fight the Seminole Indians, had not been confined to Alabama. Georgia, Tennessee, and some of the other States, had felt the burthens of this service. It would be unreasonable to expect them to furnish the immense additional force that seemed to be contemplated by some gentlemen, and which, or even more, would be necessary to meet the views of Gen. Taylor.

Mr. C. thought the provisions of the bill were the best calculated to terminate this long-protracted war. The other plans had been tried with all the advantages of gallant troops and skilful officers, and had failed. [Mr. C. then read and commented on provisions of the bill.] At the conclusion of the war, and when the Seminoles had been removed west of the Mississippi, and not till then, each settler would receive his three hundred and twenty acres. Well, suppose the whole number provided in this bill would go; but for himself, he did not believe the whole number would—it was not necessary—a less number would answer—but suppose all should go, it would require about 3,200,000 acres of land, which at the ordinary price of our public lands, would amount to \$4,000,000. If economy be the object, this plan is better than any other proposed. If it should accomplish the purpose in view, it will only cost us the land, and one year's subsistence and clothing—if it shall fail, or the Indians are not removed, the land will not be given to the settlers; they can claim no other reward for their services under the provisions of the bill.

Mr. C. said there were more than 26,000,000 acres in that portion of Florida occupied by the Indians, of which we propose to give three and a quarter millions to those who have to conquer it all for us, before they will have a right to possession. Do gentlemen see any better mode of conquering and removing the Indians from Florida? All the large bodies are captured and dispersed, and there only remain small straggling parties or individuals, which it is impossible to "catch," as proposed by the Senator from South Carolina, by merely marching an army through the country. Such a purpose is not to be attained by a transient force; it can only be accomplished by a stationary, or permanent body of men. The bill proposes that the settlements shall be in stations, designated by the commander of the United States troops in Florida, according to a general plan, to be approved by the President; not less than forty, nor more than one hundred settlers to be at each station; that each station shall be protected by block-houses and stockades, to be put up by the settlers, with the aid of the United

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States troops; and that special military protection shall be given to each company of settlers, while putting up their block-houses, and a general protection afterwards, by military force kept in the country. In such block-houses the settlers, and all others in their vicinity, would find protection at all seasons, as the experience of the Western country had proven. Indians do not use artillery, nor understand its use; and one hundred men could efficiently protect themselves within these wooden fortifications, against 1,000 Indians. It would be the interest of the settlers to get the lands into their possession as soon as possible, to watch the marauding Indian, and capture or destroy him whenever he put his head out of his hammock. Let it not be supposed that if this bill is passed, there will be any difficulty in finding men in sufficient numbers, of stout hearts and willing hands, who will be ready to close with its offers. The West and South still contain men enough who are willing to undertake, and able to accomplish like deeds of noble daring as distinguished their ancestors in days gone by in their conflicts with the savages. Yes, sir, many of the descendants of the hardy pioneers of the West would gladly embrace this opportunity of acquiring a freehold. In my own State, when a regiment of volunteers was asked for of two battalions—for one of those battalions to consist of five companies—eleven companies presented themselves at the place of rendezvous within ten days from the date of the order requiring them, though many of them travelled more than a hundred miles; and for the other battalion, four or five companies more than could be accepted, offered themselves. Although these troops returned not altogether pleased with the manner in which things were conducted, a single county had since furnished two full regiments, and were still ready to volunteer, on terms much less favorable than those offered by this bill. There were a great many hardy and industrious men residing in the States of Georgia, Alabama, and Tennessee, who were not possessed of freeholds, who would avail themselves of the terms of this bill to acquire them, and defend themselves by the strength of their own arms. He said three hundred and twenty acres of such soil as that represented to be in this portion of Florida, by the communication of the Surgeon General, which was before us at the last session, would lay the foundation of an ample competency for an industrious man and his family. A bounty so liberal, to be obtained, probably, by one or two years' honorable military service, at intervals, (for it was not intended that they should be continually in service throughout the year,) would hold out strong inducements to the bold and enterprising; and he would not be surprised to see battalions or regiments going forth, almost in bodies, to secure its advantages.

Mr. C. said he could not doubt that the plan proposed by the bill was practicable, and that

it would be carried into effect. He said it was in this manner that a large portion of the Western country had been settled and reclaimed from the occupancy of hostile bands of Indians, and with less aid and protection from Government than was offered in this bill, as many who were now living could attest. He was unwilling to believe that we had so far degenerated in courage, tact, or energy, that the present age was unequal to the achievement of victory and conquest over, comparatively, a handful of savages, cut off, as they were, from the assistance of any other people.

But, said Mr. C., if the prospect of success were less encouraging, the plan is worth an experiment. If it should fail, it will cost a comparatively trifling expenditure. We have tried all the ordinary modes of warfare, without subduing or expelling the enemy. We have had all our principal officers there, and all their efforts have resulted unsuccessfully. The officer who has commanded them during the last campaign, and who has been so highly extolled for his gallantry and skill, is opposed to a renewal of the war, on the system heretofore pursued. Shall we submit, ingloriously, to a mere remnant of a paltry tribe of Indians, and suffer them to remain masters of a valuable portion of our territory, perpetrating their savage cruelties, and marauding upon our fellow-citizens with impunity, and without restraint? Or shall we incur the expense of the enormous addition to our military establishment which has been suggested by the gentleman from South Carolina? Or shall we adopt the measure now under consideration? Mr. C. said he could not hesitate in giving his decided preference to the latter; believing it would result in the conquest of the country, and the removal of the only tribe of warlike Indians now east of the Mississippi.

Under similar circumstances, and with such views, the bill received his support at the last session of Congress, when it passed the Senate. He would again vote for it, and trusted it would now receive the support of a majority of the Senate.

The bill was then ordered to be engrossed for a third reading.

THURSDAY, January 9.

*Armed Occupation of Florida.*

The bill for the armed occupation and settlement of that part of Florida now overrun by hostile bands of marauding Indians, was taken up on its third reading, and Messrs. CRITTENDEN, PIERCE, and PRESTON, addressed the Senate at length on the subject.

Mr. CRITTENDEN rose and said: The Florida war has become a matter of distinguished importance, and the measure which is now under consideration is therefore entitled to our soberest and most deliberate regard. In the various disappointments which have been

experienced of our hopes of the termination of these hostilities, we have cast about our minds for the reasons of this protracted hostility, and for the means by which it might be brought to an end. Notwithstanding these disappointments, I had indulged the hope at one time of the quiet settlement of the Territory, by some means within the usual and legitimate powers of this Government. But from this measure I do not believe there is one good result to be anticipated, and I think the bill ought not to pass.

Mr. President, every consideration of economy, of humanity, and of honor, requires that this war should be speedily terminated by the most effectual measures within the power of this Government; and there will be very great danger that ineffectual or slow measure will have a tendency to prevent the adoption and prosecution of measures more effectual. The adoption of an inefficient measure, therefore, would be unfortunate, not only on account of its positive uselessness, but on account of its diverting the Government of the country from means which might be used successfully to terminate the war.

How far, then, Mr. President, is this bill calculated to effect the attainment of this object. An invitation is here to be sent out to 10,000 settlers able to bear arms, and they are to occupy—what? Is it the forests, the hammocks, the paths, or even the most secure portions of the country in its natural state? No, sir; they are to occupy places of defence, they are to put up in block-houses, and even then they are to be aided by the military forces of this Government. They are to receive, even in these garrisons, the protection of the military of the United States. The number of settlers in each garrison is not to be less than 40 nor more than 100. Suppose you get over 5,000 settlers; it will require one hundred garrisons, and fastnesses to be occupied by them; and they are to construct these defences by the aid of the troops of the United States, with special protection from them at first, and general protection afterwards. You are first to bring these companies of armed settlers into existence; then you are to construct 100 fortifications for them by the aid of your military, and you are to protect them by means of the military. Sir, can all this be done in twelve months? To effect this measure, therefore, the war must be suspended for one year, while you prepare the means of fortresses and garrisons, and carry on the war after that. Heretofore, the military have acted to protect the frontiers of the settlements. Now, in the heart of the settlements, you are to build 100 fortresses. And what military will it require? Will the whole be more than is necessary? You have devoted their services to a new object altogether. Will it require the whole force now to guard the settlers shut up in garrisons?

By the first section of the bill these individ-

uals are called settlers. But in what sense? They are required by the terms of the bill to inhabit garrisons, and to carry on a savage warfare under the protection of your military, in perfect security, in impregnable fortresses, with the addition of a military force. And they are thus to remain in idleness and security—till when? Till the termination of the war. And the whole time they are to be fed and clothed at your expense. And to do what? Nothing; absolutely nothing. They are to be given the free use of the land adjacent for cultivation. But to what extent will they cultivate it? What is the inducement for them to labor, even without danger? Sir, you have taken away the only inducement which civilized men ought to have. You have agreed to feed and clothe them, and for what else will they labor? Will you send them into a dangerous wilderness, and hold out to them the inducements of merely raising productions for a profitable market? What motive to action have you left to such a settler? You feed and clothe him, for which he is required to perform no service. Sir, will he fight? Will he pursue the savage either to catch him or to drive him out? No, sir, no, sir; they will all occupy their garrisons, receiving as a gift their food and clothing, and there they will do nothing till the war is ended. They will remain under a consciousness of perfect security. They are required to do nothing. Why then should they seek the Indians? They will not be required to do so by the law, and why should they do it? If they do it at all, it will be from a mere spirit of voluntary adventure.

Sir, it appears to me that we should make a great miscalculation if we should suppose these garrison citizens of yours to resemble, in any degree, the hardy and resolute pioneers of the West. They drove out the savages; but what was the inducement there? In the first place, while receiving no bounty or supply from the Government, with a determined spirit they entered the wilderness, with wife and children, without any means of subsistence but the rifle and the plough; and if they cleared and cultivated fields, it was necessary to war with the savage even beyond their bounds. In that way, with the rifle and plough together, they subdued and settled that great wilderness. But you have not therefore any right to expect that men secured in garrisons, shut up and protected, fed with public provisions, clothed at the public expense, taken care of by the public arms, and even with hopes of reward for all this passive security and sustenance—sir, you have no right to expect from them any thing like the efficient services and gallant achievements of the pioneers of the West. You throw away at the outset all the inducements which led to such results, and you have, therefore, no right to expect them. Sir, I believe in my heart that this measure will fail to accomplish any useful and patriotic object.

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Sir, whoever was the author of this bill, it will naturally tend to the results which I have named. It may be a question, indeed, whether any thing effectual can be done for the prompt and quiet settlement of Florida. Perhaps it cannot be settled as the West was settled; but whether it can be, or not, I am perfectly persuaded of the inefficiency of this measure. It is far worse than idle and useless. The inducements which you hold forth for settlers are such as will address themselves most strongly to the most idle and worthless classes of our citizens. And when you get them there, you cannot, by the method you propose, alter their character, except for the worse. What men of industry and enterprise will engage for twelve months, and with the hope of clothing and food, to be collected into squads, to be immersed in garrisons, shut up from all those salutary influences which arise from good order and morals in society? Sir, what can you expect from those that are brought together by such inducements, and to live such a life? There is more reason to believe that they themselves will be converted into savages, than that they will drive the savages from the Territory.

Sir, I would not exaggerate; I would utter nothing from party prejudice. But what do you expect from this measure? Let gentlemen ask themselves this question; and then let them ask further, do you expect any service from these men adequate to the expense? If to be shut up in garrisons, to be fed and clothed at the public expense—if this is public service—then public service will doubtless be done. And what are you to pay for it? You are to give to each of these men 320 acres of land at the conclusion of hostilities; and, if there are 10,000 of them engaged in this sedentary service, their whole compensation will be 3,200,000 acres of land. And that will be its value? Will it be less than from five to ten millions of dollars? Sir, the privilege of selecting 3,000,000 from 30,000,000 acres of land—is not this itself a privilege worth \$10,000,000? Is this the best way to apply the public property? If it is not, you ought not so to apply it. You are the guardians of the public interests; and you are therefore called upon to decide whether this is the best way to apply this amount of property.

But let me take another view of the subject. If this bill could be carried out, and if each of these men would make a settlement on his land as his resource and future home, there would be at least some consolation for this loss of the public property. We might, at least, thus help in raising up useful and respectable citizens. But do you remember, sir, that in your last war with Great Britain, you offered as a bounty to each of your soldiers 160 acres of good land, all fit for cultivation, to be surveyed and laid off at the expense of the Government? And what became of the land? Did your soldiers after the war retire

to the homes you had thus provided for them? Did they become freeholders, converting their arms into ploughshares? Did they go to work on their bounty lands? No, sir; every gentleman here knows, that almost the whole of this portion of the public domain was squandered and given away by these prospective settlers, through speculation and fraudulent bargains, from one end of the country to the other. These claims were to be had in any number you pleased, at any of the auctioneers' or brokers' shops in this city, at from \$20 to \$50 each. That was then the result, and, depend upon it, these 320 acres which you are to give to each settler in this case, will be swallowed up in the vortex of exactly the same sort of speculation. Had we not then better adopt another mode? Let us pay them as we pay our regular soldiers. The pay in money is fixed and certain; but here you give land, which is uncertain; and in the mean time, the soldiers, or rather the speculators, will, on the whole, always get the advantage of us. Why, then, adopt this mode? Are you unable to raise money for this war? Can you get enough neither of the constitutional currency nor of Treasury notes, to keep up a strife with 600 or 700 miserable savages? Is that the condition to which we are reduced? Sir, if this system is adopted, and these men must be paid, without any service in return, let them be paid in money; it is but equal justice to them, and to the rest of your soldiers; and you will know then what you are giving, which now you do not. On this plan, one settler may get what ten more will not get. And the measure is unjust to the Republic, because the expense will, on the whole, be more than if paid in money. It is unjust, further, because it will result in an advantage to the monopolists of land. While your own lands are settled at the usual price, these 3,000,000 will be within the grasp of speculators for some \$40 or \$50 or \$100 a patent for 350 acres.

The Senator from South Carolina (Mr. Preston) has said nearly all that can be said on this subject. I believe with him, that this measure will not be successful in the termination of the war. The war has been now in progress four years, and to this day there is no end of it to be seen; and unless this, like all things earthly, must end, we might say that we are now as far from the end of it as ever. Yet we have already spent \$25,000,000, and how much of life and blood I cannot sum up. During the whole period, Congress has done every thing that has been called for. Sir, has the Department made a single demand of money or of men which has not been granted? Of money and of military no amount has been asked for that has not been promptly granted. Under these circumstances, has not the nation a right to ask whether the war shall still go on at yet more than this disgraceful length. We have given all that the Executive authorities asked, as

much and as soon as they asked it. Why, then, have they not finished the war? Have the troops failed to maintain their character in the view of the country, or to perform their duty to the Government, through want of spirit, bravery, or perseverance? Can you attribute this failure to the troops? Sir, no country ever had braver soldiery, and braver have never been in the American service. Distant, inglorious, and obscure as is the scene of action, they have gone on through difficulty and danger; not a murmur was heard; and they have endured and died in your service without a groan, cut off by the climate and the enemy; falling unknown and unheard of, obscurely swallowed up in that vortex. Your soldiery now, and heretofore, have done and endured enough to weave a laurel worthy of the brow of this Republic. They have there shed their blood, and deposited their bodies on the soil; and what do we find for such a sacrifice? Where are now the public laurels? Are there any of them? Not a leaf, and what is the reason? If we have given all that has been asked; if the soldiery have well and bravely done their duty, where are we to look for the responsibility for all this disgrace? Who is accountable for this disastrous war—or this long-protracted public ignominy? Sir, I know of no other than the Secretary of War. We are not competent to determine on the movements and operations of the war, or of the skill of this or that manœuvre, or of the qualifications and conduct of one and another general; and we cannot look to them; we must look to the head of the department, who manages and regulates all. I look not to this or that action, or the army, or the particular year; but I look at the general aspect and progress of the war; and I look to the Secretary of War as responsible for these general results. In his hands we have placed the means of the war, plenty of men and money; he has had the Treasury and the whole military power of the country at his command for four years. And what has he done? Look at the report of the Secretary of War. He there says 45,000 miles of your territory is in the possession of the savages, and the enemy retains it after a four years' war. You are staggering, exhausted, under what will not bear the name of war—a skirmish with 600 savages? And are the means not enough? If they are not, why not ask for more? If the means are insufficient, we ought to have known it; it is a matter which not we, but the Secretary of War, is to determine. If four or five thousand men were ineffectual, was it not his business to know it? If 20,000 men were wanted, we ought to have known it from the Secretary of War. Why, then, did he not call upon us? Would not the expenses have been less in a few months, with 20,000 men, than to continue thus feebly and ineffectually to squander your treasure? Sir, I speak of this as a national misfortune, not unmingled with

shame and dishonor, which never existed to such a degree since we were a nation. This war is unexampled in point of expense and bloodshed, with an enemy so small, and not only with no glory, but public disgrace. I desire that the whole history of this war may be given, so that it may be shown whether there is any apology for the Secretary of War; and, if it should appear that his conduct is justified by the circumstances, give him at least that advantage. There is no nation that would not do it. But we ought to weigh this matter well before we take it into our own hands, and out of those of the Executive, to relieve him of the disgrace and responsibility, and bring them upon ourselves. If the Secretary of War has regarded this matter as a trifle for four years, is he now awakened to a consciousness of his past error? And is he now prepared with plans to put an end to it?

And what are those plans? Sir, his explanation of them is about equal to the war itself. He says, before the war is brought to a conclusion, it may require other means than have yet been tried. But what are they? Under this vague communication what does the Secretary propose? Has he yet any definite idea on the subject? Or, by his ambiguities and oracular mysteriousness, does he mean to keep the way open for other schemes, and other means, which he fears must yet be tried before the war will end? In that conclusion we will all concur with him; but we should like to have known what those other means are. Sir, I would not dictate what he is to do in this war, but I demand his plan, and I say the nation has suffered enough by these vague and irregular proceedings. What is his plan? And how many men, and how much money, does he want to carry it into execution? Let him take them, and be responsible for the results. This is the way in which all Governments proceed.

His other means are yet locked up as the arcane of state. There is, indeed, a suggestion in the Message, that he will want 1,000 more men. But these are not other means. He says, furthermore, that from this bill he expects very beneficial results. And that is all. Beneficial results! and he wants a thousand more men, and other means may be raised!

Sir, believe me that it affords me no pleasure to make imputations on any person; but I do not hesitate to make them where it seems to be required. Still I would rather now deal with the subject than with the Secretary. But we can look only to the Secretary for the loss of \$25,000,000, for the great amount of national character that is gone, and for the much blood that has been shed. Sir, the Secretary tells us that 45,000 miles of our territory is in the enemy's possession; and so far from our making any encroachments upon them, they ravage and ruin our settlements, with murder and fire, along the whole frontier. Is not this a disgrace? And ought we not to wipe it out

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as soon as possible? I believe this bill is not the most adequate means of doing it. The exigency demands other means, which we ought to apply. I will not say but it would be better to adopt the mode of catching, instead of killing; and, in that case, I would advise you to offer \$1,000 reward for every one of the Indians that shall be taken as a prisoner. That would be an inducement; and, though I pretend not to prophesy, I am not afraid to venture that such a measure would be very effectual. Men would then engage in the enterprise of the exact character required. They would inhabit no garrison; they would not sleep in peace and security, furnished at the public expense with provisions and clothes. They would hazard their lives to seek the enemy, and their whole object would be to find them, without which their whole labor and peril would be lost. And, if they caught them at all, it would be at a public expense of only some thousands, instead of millions.

Sir, I beg pardon of the Senate for the time I have occupied on this subject; but I have been impelled to it by a sense of duty; and I have spoken from no personal spirit of asperity toward any human being, but merely out of feelings of sorrow and regret at this unhappy and unfortunate warfare. We are all equally intent to adopt the best mode of ending it, the friends of the Administration no less than others. They were almost simultaneously commenced, and almost the whole of Mr. Van Buren's term has been consumed upon this war. And those who regard this Administration like a bright luminary, shining on the footsteps of those who have gone before, must at least admit that this Florida war is a black and bloody spot upon it; nay, that it surrounds it like a black line, blotting it out, according to the doctrine of some—a consummation which the friends of the Administration will think is most devoutly to be avoided. I therefore think it best to call on the Secretary of War for his plan as to this war, and let him tell us how many men and how much money are wanted, and thus leave the matter to the proper department, taking the just degree responsibility by suggesting a plan, and asking for the means to carry it into effect. I think it the more appropriate and judicious course.

Mr. PERCIE said: Having determined to support this bill, not without some hesitation, it was my intention, after the full and minute exposition made by the chairman of the Committee on Military Affairs, (Mr. BENTON,) to give a silent vote; and I should have done so, but for the extraordinary course of argument pursued on the other side, and the sweeping denunciations of the Executive in which gentlemen have chosen to indulge—denunciations which I cannot but regard as wholly unwarranted and unjust. If Senators will withdraw their thoughts from these general charges of a want of zeal, forecast, and energy on the part of the Executive—lay aside all prejudices

which such charges may be calculated to engender—and consider for a few moments the nature of the territory in which our troops have operated, and must continue to operate—the character of the foe—our present means, and the condition of that country—they will be more likely to do justice to the distinguished individual now at the head of the War Department, whose conduct in relation to the operations on that ill-fated peninsula, I have, during this debate, heard censured for the first time, and much more likely to adopt those legislative measures which the exigencies of the case, with a full view of all the difficulties and embarrassments with which it is surrounded, may require. There is much truth in the remark of Gen. St. Clair in the introduction to the history of his own disastrous Indian campaign. He says: "In military affairs, blame is almost always attached to misfortune; for the greatest part of those who judge (and all will judge) have no rule to guide them but the event." Now, sir, in this country, there has never been a case where the event of military operations was so much calculated to lead the mind to erroneous, unjust, and uncharitable conclusions as those which we are now considering. That the Florida war has, in all its aspects, been most disastrous and melancholy, many of us feel—all are ready to admit. The blood of our patriotic citizens has been poured out there like water, the lives of many of our noblest officers and faithful soldiers have been sacrificed, and the resources of the nation have been drained in a hitherto fruitless attempt to remove cruel, artful, and treacherous bands of savages, whom no treaty obligations can bind, and whose tender mercies are manifested in the deliberate and indiscriminate murder of helpless infants and defenceless mothers. Now that portions of our army, varying from four to ten thousand men, should have been, during the last five years, within our own territory, in a conflict with remnants of savage tribes, not embracing at any time, it is believed, more than twelve or fifteen hundred warriors; and that, with the exception of the roads and improvements which have been made, the geographical knowledge that has been acquired, and the experience gained, which, I trust, we shall not be disposed to disregard, we are in a condition hardly better than that which called our troops there in the first instance, is certainly very extraordinary upon the face of it; and yet, if gentlemen, here and elsewhere, will carefully examine this map, make themselves acquainted with the topography of the country, and notice the fact that, below a line drawn from Tampa Bay to a point near New Smyrna, nothing was known to any white man of this immense territory; that it was wholly unexplored except by the savage, who was familiar with all its recesses and fastnesses; that in almost every direction it was impassable for troops, and especially for baggage trains; that for long distances to-



gether a column could not advance, without constructing corduroy roads; that, in consequence of the deadly climate, the active campaigns could only be continued from October to April; that the foe would show himself but at places where he could not be reached, except at the greatest disadvantage; and that his force has always been divided, and scattered over this extent of 45,000 square miles, their wonder at this want of success will cease. They will see that it has arisen from natural causes, from causes which no human sagacity could foresee, turn aside, or overcome. The Senators on the other side, I have been pleased to notice, have done justice to the officers and soldiers who have served in those campaigns. Never was commendation better merited. Never were men sent into such a deadly climate, upon such disheartening, thankless service. There is, and has been, nothing to stimulate individual ambition, and the dangers of the climate alone have equalled all the dangers of active campaigns under ordinary circumstances. Still the spirit of our countrymen has not been wanting, even there. A single instance of shrinking from duty or from danger; a single instance where the fight has not been sought when there was a prospect of bringing on an engagement; a single instance, in a word, where a soldier's duty has not been performed in a manner becoming a soldier of the Republic, has not come to my knowledge. No, sir: surrounded by disadvantages, and environed by circumstances chilling to military ardor, there has been on all occasions an exhibition of bravery, of cool, determined courage and patient endurance, not surpassed in the history of any warfare. Here, at least, we concur in ascribing no fault, in passing no censure.

It would have been gratifying to me, if Senators could have regarded the conduct of the Secretary of War in a similar spirit, because, to any generous mind, it is painful to be forced upon subjects of censure; and in this instance, I believe the foundation of the charges to be entirely imaginary. If the Secretary is to be held accountable for the disasters of that war, it is important to him and to the country, that these denunciations assume a form somewhat more specific; that the charges be made so definite as to admit of a definite answer. Now, sir, I call upon the Senators from South Carolina and Kentucky, (Messrs. PRESTON and CRITTENDEN,) to inform us where they find the evidence of the Secretary's impotence and want of energy; where and on what particular occasions has it been manifested. From the date of his first official letter to General Jesup, in March 1837, to the present time, do gentlemen find any thing to censure in the instructions given to the different commanding officers in Florida? If so, what instructions? Do they object to the suggestions of the Secretary in his various reports, except that in relation to the measure now under consideration? If so, let them be indicated. We

shall then have something to direct our inquiries, something upon which the judgment can rest. But now we can only meet these general charges by as broad and general denials, and support such denials by calling the attention of the Senate to what the Secretary has done. To this, without reading copious extracts from the documents on your files, I shall briefly advert.

Soon after he entered upon the duties of his office, he received from General Jesup intelligence that the war in Florida was over, unless renewed by the imprudence of the inhabitants. This hope proved, like similar hopes previously indulged—illusory. In the August following propositions were made again by several of the chiefs for peace; but the Secretary, as the correspondence and public documents abundantly show, was not turned aside for a moment from his purpose of terminating the war, in the campaign of 1837-'38, if a strong force, abundant supplies, munitions promptly furnished, and all the facilities for prosecuting the campaign with vigor and effort, could accomplish the object. As early as September, arrangements had been made for six hundred volunteers from Tennessee, six hundred from Louisiana, six hundred from Missouri, with three hundred riflemen, spies, and an Indian force to co-operate with the Florida militia, and the strong regular corps of artillery, infantry, and dragoons, already at the disposal of the Commanding General.

Although the Secretary had always manifested the strongest desire to spare the further effusion of blood, and to save that deluded, faithless, and cruel people from extermination, he still declared, from the first, that his only hope was in an active and vigorous prosecution of the war. When the Cherokee delegation went to Florida, with the avowed purpose of persuading the Seminoles to the treaty terms, General Jesup was expressly advised that the mission was not to delay for a moment military operations. There was, on the part of the Secretary, no procrastination, no delay. Munitions of war were transmitted in season; supplies were forwarded in abundance; and the troops were in the field, ready for active operations, at the time proposed. General Jesup was at the head of about ten thousand men, and his force was certainly sufficiently diversified in character. There were regulars and militia, artillery, infantry, dragoons, marines, and riflemen, spies and Indians; and with this strong, and, as was at that time supposed, well-appointed force, the General commenced his campaign, to the event of which the country looked with hope and confidence. He attempted, as the Senator from South Carolina would express it, to drag the Territory as with a net; and with what success? Our hopes withered, and our hearts sickened at the result. The commanding General, I believe, put forth all his energies, and his troops furnished to him no ground of complaint; but he shared the

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fate of his predecessors. The foe was neither caught, conquered, nor killed. I institute no comparisons between the different Generals who have commanded in Florida. They have been alike triumphant whenever they have met the foe, and alike unsuccessful in expelling him from the country. These failures are, and will continue to be, attributed to different causes. I find the paramount obstacles in the climate, the nature of the country, and the character of the enemy; and my belief is, that unless you make Florida passable in every direction, and can march a column extending from the Gulf on the one side, to the Ocean on the other, this process of sweeping the territory as with a net must prove fruitless. It is a very easy thing to discourse here of sweeping a country, embracing forty-five thousand square miles, situated in the tropical regions, with a climate genial to the savage, but deadly to the white man—portions of it, still unexplored, abounding in provisions suited to the habits of the Indian, and furnishing secure retreats, known and accessible to him alone—but to do it is an impossibility. Experience proves it to be so; it has been tried again and again, with regular troops, with militia, with infantry, with mounted men, with Indians, and with one uniform result. Twenty thousand men, for such a purpose, in the then state of the Territory, would have been no more effectual than five hundred. But gentlemen will perceive, by glancing at the face of the country, as delineated on this map, that, although all has not been accomplished, much has been done to make the provisions of the bill under consideration operative and effectual. You will observe that our troops, at different times, under the different Generals, in various columns, and in almost every direction, have marched the entire length of the peninsula, from Okefenokee swamp to the Big water, at the head of the Everglades; but while they were passing down, the Indian was stealthily threading his way up; and while they were beating up the marshes and searching for his trail in the region of Kissimmee River, murder and rapine announced his presence in the fertile and settled Alachua country. At the close of 1838, such had been the results. The Secretary of War had tested the inefficiency of mounted men—they could not operate in that country; the enormous expense of militia had been abundantly demonstrated, and the total failure of the whole was painfully obvious. Under these circumstances, what were the duties of the head of the Department? This is a question which I shall answer only by stating, further, what was his action, and leave the country to judge of its propriety. When Gen. Jesup was permitted to return to his appropriate staff duties in this city, all the troops which could be spared from our exposed and unsettled frontiers in other quarters, were left in the Territory under the command of that vigilant, energetic, and able officer, General Taylor. In prosecuting any campaign, it is well known

that much must, of necessity, be left to the judgment and military genius of the commander, to be exercised on the spot. In October, 1838, the Secretary gave General Taylor general instructions as to the manner in which the succeeding campaign should be conducted. In these instructions the protection of Middle Florida against the incursions of the Seminoles was made the first object. To attain this, the establishment of an interior and exterior line of posts, to extend across the peninsula from the Gulf to the Ocean, was recommended. These and various other suggestions, contained in the letter of the Secretary of October 8, 1838, formed the basis of General Taylor's instructions for that campaign. Unfortunately, the great and first object of the Secretary was not secured, and the exposure encountered, and the immense labor performed by the columns of the army, under the direction of General Taylor and Colonel Davenport, were crowned with no better success than that which had attended similar attempts before. In the mean time, the wisdom of Congress interposed. Military operations were suspended, and negotiations substituted in their place; not upon any suggestion of the Secretary, be it remembered, but against his known and expressed opinions. The result of the negotiation is written in blood. The obligations of the treaty were not regarded for a moment; they were not intended to be observed on the part of the Indians at the time of its execution, as is proved by the burnings, robberies, and murders that immediately followed—some of them within four miles of one of the oldest, if not the oldest town within the limits of the United States.

Such is the very brief and imperfect outline of what the Secretary of War has done, and for his full, complete, and triumphant vindication against the general charges preferred, I refer to the public documents and correspondence upon your files, embracing the details of the history to which I have thus cursorily adverted. The eye of the Secretary could not be expected to reach where it is not given to mortal vision to penetrate. He could not be expected to accomplish that which it is not given to man to achieve. I believe, with all the difficulties of the case, he has made the best of the means in his power. In considering the measure now proposed, it is material to remember not only the failure of the large armies, with the immense expense incurred, and the disastrous terminations of every attempt at negotiation, but also to bear in mind the very important fact that there is no war in the Territory, and has been none for a long time, in the proper acceptation of the term. There has been no fighting for more than two years. The Indian force now remaining does not probably exceed from three to five hundred men, scattered in small bands over this extended area. That they should be expelled as soon as practicable, by all reasonable means, is universally conceded; but the Secretary who would sanction a recommenda-

tion to saddle this country with the expense of an army of twenty, fifteen, or ten thousand men, as has been suggested, to *hunt* these three hundred savages, would not only find little support for his recommendation here, but less before the people, who were wisely and justly jealous of large standing armies. To expel the last vestige of these banditti, and to give peace and security to the whole of that peninsula, must be the work of time. In the meanwhile, the settler in his home, and the shipwrecked mariner upon the coast, must find protection in our arms, and feel that there is security from Indian barbarity. To attain these objects, the instructions already given for the disposition and employment of the force now there, and the legislative measures we are considering, are well adapted, and, in my judgment, sanctioned by sound policy, drawn from past experience and present knowledge. Troops are now stationed along the Atlantic coast for the protection of commerce at New Smyrna, St. Lucie's Sound, at Jupiter Inlet, and other convenient and commanding points. Protection, too, is afforded on the Gulf. By the exertions of Gen. Taylor's force, now actively employed, as I notice by a letter of the 11th ult., the settled portions of the Territory will soon be relieved from every individual of this murderous race. What more, then, is proposed to be done? For the protection of the coast, as we have seen, provision has already been made. That the settler may cultivate his fields by day, and repose in peace with his family at night, a cordon of posts, at short distances from each other, is to be established from the mouth of the Withlacoochee, by Fort King, to a point near New Smyrna, connected by good roads, when necessary, and the intermediate spaces guarded by constant patrols. In addition to this, the Secretary, in his report, asks that the Executive may be empowered to raise one thousand men, who are to be *armed, drilled, and equipped expressly for this service, and to serve during the war*. Judging from the spirit of liberality recently manifested on the other side, I anticipated no objection to this recommendation. With the regular army stationed on the coast, and at the cordon of posts before indicated, such a body of men can hardly fail to prove, in the highest degree, serviceable in their active operations between Fort King and Cape Sable. They will undoubtedly, in conjunction with such regular troops as can be spared from the posts, be able to keep some of the small bands of marauders in constant motion, and so to harass them, by pursuing their trails, and disturbing them in their places of retreat, as to make emigration, which they so much dread, preferable to such a life. The Indians will soon learn that, while they are effectually shut out from the coasts and the white settlements, this is a force which is to be permanent—to remain there as long as they remain, and to be constantly in motion. To carry out, to a certain extent, Gen. Taylor's

idea of "covering the whole country," this bill proposes ten thousand armed settlers, instead of the armed force of mere soldiers, which has been tried and failed. As was intimated at the opening of my remarks, I cannot indulge the sanguine hopes with which some of the most ardent friends of the bill seem to be inspired; but there are, undeniably, many strong considerations by which it is recommended. The expulsion of the savage must, at best, be the work of time. The establishment of ten thousand hardy settlers, considering the geographical position of the peninsula, and its vast importance in any future war to all the southern country as a point of attack and defence, would, in itself, be an object richly worth the 8,200,000 acres of land provided for the whole number, should so many settlers be obtained. The bill is well guarded, both for the Government and the settler. An important provision is, that the pay is to depend upon the success of the project. The bounty is not to be granted until the work is performed.

Mr. PRESTON said: I am very glad, Mr. President, that the attention of the Senate has been called to this bill, and from that fact at least I hope good will result. We are all anxious, and I am happy to say it with great sincerity as to myself, to bring this war to a satisfactory termination, that Florida may be open to quiet settlement by the white inhabitants of this country. Sir, I have no other views whatever than to effect this object; and I would not oppose any measure, even this, if I believed in its success, or merely in its harmlessness. But this measure cannot but result in injury, which we are all anxious to avoid. It tends to an entirely different purpose from that assigned, and to an indefinite protraction of the war, involving new measures to be adopted at a distant time, with an expenditure of more money.

Mr. President, the project is for the settlement and armed occupation of Florida, thus gradually taking possession of the lost territory. But let us reflect on the peculiar attitude of affairs in that country at the present moment. We have been at war there since December, 1835, to protect our frontier and drive out the Indians. At that time Florida had long been a territory, with settlements advanced far into the interior, and at that time it was necessary for the Government to remove the Indians out of the way of the progressive settlement of the territory, which was pressing on the Indian territory in East Florida. It was on this occasion that the war broke out, and it consequently became necessary to employ the military force of the United States to protect the settlers. A cordon of posts of United States troops was established to protect your actual settlements, all round the northern frontier of the Indians. Sir, did your project succeed there? Did all your military power prevail in protecting the settlers? So far from that, the irruptions and ravages of the Indians expelled the inhabitants of the Territory, so

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that the Indians conquered Florida in spite of the United States. So far from that, the Indians of that Territory conquered even that portion of the land which the United States had sold and settled, and expelled our citizens who were actually in possession of it. Sir, this is a melancholy commencement of the settlement of that country by individuals by whom the land had been purchased and paid for, and whom you guarded to the utmost extent, or at least ought to have done it; and now you propose a project for settlements, though those settlements were all broken up. Though those settlements could not be maintained, or at least were not, yet it is now supposed you can conquer that country by settlements.

The gentleman from Alabama, (Mr. CLAY,) with whom I do not concur in this measure, has fallen into some mistakes which I consider of consequence. There has been a good deal of military experience in that country, by men of worth, whose opinions are entitled to great weight. One of them is General Taylor, in reference to whom, as well as others, the gentleman has mistaken me. The truth is, Taylor is an authority on whom I rely; and so far was he from recommending this block-house plan, this war in disguise, mixed up of the sword running with the ploughshare and the ploughshare with the sword—

Mr. CLAY, (interrupting). I did not say that he recommended the plan of the bill; that was not Taylor's plan; but I said it was his opinion that the war ought not to be renewed as heretofore.

Mr. PRESTON. Taylor was not in favor of the post (agricultural) plan, but entirely against it. And it is a fact, as far as I can ascertain, that, by all the gentlemen who have been actually engaged in Florida, military or civil, a plan of this kind would not be deemed efficacious; and many of them assure me that it is utterly delusive. I am aware that there are opinions in favor of it; but I have not known of one individual in Florida, who thinks that it would be attended with success, unless it is attended with other measures; for example, it may be efficient, if with all the power of the Government we scour that country; and when this is done by the army, there may be protection for those who are settled in Florida. Such is Taylor's opinion, who says: "If the war is renewed, which I do not hope, the only way to bring it to a successful issue is, in my opinion, to cover the whole country so as to prevent the Indians from hunting and fishing." As the war is to be renewed, it is therefore his opinion that the only way to a successful issue is to cover the whole country so as to prevent the Indians from hunting and fishing. And this is precisely the project which I have proposed. It sounds largely, this covering the whole country; and yet I believe it may be done without any great display of military force. And why has it not been done? The Senator from New Hampshire (Mr. PIERCE)

asks for specifications against the Secretary of War. I will now give them. This war is disastrous at the end of five years. And what power had the Secretary of War to prevent it? I will now tell you. He has had every thing that the Department has asked for. This is my answer. And it is a matter of charge against the Executive Department that, having all the power of the Government to accomplish this end, it is not accomplished.

The gentleman from New Hampshire says, and says truly, this has been a most disastrous war, with a vast expenditure of treasure. And has Congress ever refused any amount of means? It has opened its doors wide enough for any power, and here has been a war of the whole of the United States from Maine to Missouri; a war of 15,000,000 prosperous people against a miserable band of naked savages; a war of the whole territory, army, and military of the Union, against a few bandits in Florida, and with all this the war is disastrous. It may be that the Department is not enlightened as we are, and has not foreseen these results. But what is the Department for but to foresee? And whose fault is it that the war is not terminated?

It has been said that we can only estimate measures by the result, (a method censured by Mr. PIERCE and General St. CLAIR.) And what other means have we here? He who has small means is, perhaps, not to be censured for failing in great achievements. But where there is a command of all and adequate means, then this method of judging is a test of all such matters. And what, in this case, caused the failure? Was it the want of physical or moral power, one, or both? They have had \$25,000,000, and with that sum the Territory might have been filled with roads and posts. And I believe, by an appropriation of \$5,000,000, rightly applied, the war might be entirely extinguished. If the Secretary would adopt more enlightened measures, I believe the Territory would be swept entirely clean of the Indians at that expense; and if men and money can do it, they would be given by us.

Mr. President, General Taylor, in his report, says he hopes the war would not be renewed; and I now ask gentlemen, is this a measure of peace or war? Which is it? If it is of war, we are not capable of projecting plans of that sort. But if it is a measure of peace, let gentlemen say so, and that we are not called on but for a pacific measure. (Mr. P.'s voice was here lost to the Reporter, but he was understood to refer to the case of a Frenchman who accompanied some nostrum with calomel and the lancet to make it effectual.) Such, he said, was the exact case with Florida. Accompany this measure with a military force of 10,000 men, and this measure might then be very clever if it should induce some settlement on the land. But who are those settlers? The gentleman from Alabama says that they can send hardy and resolute men to that country,

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and that these men, cultivating the ground with arms in their hands, will be always ready to pop down on the Indians. But who are they that are thus suddenly to pop down on the appearance of an Indian? Sir, does the settler kill the Indian, or the Indian the settler? The settler is at his plough, and it is he who is killed, and the soldiers are drummed out in vain pursuit of the runaway murderer. And is not this a matter of every day experience in Florida? But my view of the subject, expressed the other day, is not answered. Ours is a slave-holding population, of rich and extensive planters, and Florida will be cultivated only by slaves. And is it expected that slaveholders will, for a bounty, fight the Indians and free negroes? The supposition is preposterous. How has it happened that an individual most distinguished has failed to verify this supposition? The land was given up by General Clinch, who was a settler there, as well as by others of respectability; all fled; and these are the only kind of individuals who make settlements in Florida. (Mr. P. here stated some facts to show that Florida, like South Carolina and the South generally, could, from its staples, cotton and rice, and from its generally low and unhealthy character, be cultivated only by slaves, and not by small landholders, depending on their labor for the direct means of support.) And what, said Mr. P., is now demanded, is to put the country in a condition to be settled by Southern men. And we have the right, having stipulated for the land, to say to the Government, you shall give us the land and prepare it for that kind of population by whom alone it can be cultivated.

Mr. P. proceeded to show that the arable lands of Florida were of such a character that they would generally be purchased, not by poor men, of whom he admitted there were some in the South, but by those who thought the land worth more than \$1 25 per acre for the production of rice and cotton. He further stated that nearly the whole of the public land there now in the possession of the United States was covered by Spanish grants, which poor men could not run the risk of contesting, and which would therefore go into the hands of rich men and speculators. He objected also that good public land, with an undisputed title, could not be found in Florida to carry this bill into effect, so that, when the land should be thus prepared for settlement, there would be no more to be settled. And all that would be settled by this measure Mr. P. would venture to say would go to an idle population, instead of good, useful, and respectable citizens.

Mr. P. also further objected to the length of time which this measure would require. He thought it would require five or seven years. Instead of this, he insisted that the South had a right to demand, and did demand, that all the power of the country, if necessary, should terminate the war at once, and open the Territory for settlement.

He also objected to the bill, that men with families would, in the mean time, have no means of supporting and taking care of their families. The project of paying for military service in land, he thought had been fully proved to be the worst and most expensive. Soldiers were a class of men who would be better satisfied with a less amount of ready money; and few of them, after all, would settle on the land.

MONDAY, January 18.

*Tennessee Resolutions.*

Mr. WHITE, of Tennessee, presented a preamble and resolutions of the Legislature of the State of Tennessee, which he asked might be read, laid on the table, and ordered to be printed.

The resolutions were then read, and were as follows:

WHEREAS, the General Assembly of the State of Tennessee have, on various occasions, when in their opinion the great public interests of the country demanded it, expressed, in the most solemn form, their views in regard to questions of a national character involving the welfare of the people of the United States, and have at all times, when deemed necessary to give practical effect to the sentiments which they entertained, availed themselves of the power which legitimately, and in conformity with long-established Republican usage, throughout the Union, belonged to them, of instructing their Senators, and requesting their Representatives in Congress to carry out, as to specific measures, their declared wishes; and whereas, the extraordinary circumstances which have existed for the last few years in the financial and commercial interests of the United States remain unabated, and under causes of increased excitement and difficulty, originating, as we believe, in the same vast source of public mischief; and whereas, we do solemnly believe that to that source, the late Bank of the United States, is in a great degree to be attributed the oppressive calamities under which we have suffered, and through which we are now actually passing; and whereas, during the history of the last few years we have seen this mammoth moneyed power struggling almost with success against the Government, and wielding a power in the production of panic and disaster, that, in the language of its boldest advocates, we were pronounced to be in the midst of a revolution; and the terrible evils which we have not only been taught it may inflict, and the *present admonitions*, which proceed from the last throes and agonies of that expiring power, justify us, and demand at the hands of the General Assembly, who should truly be the guardians of the happiness and prosperity of the people, any effort which can in anywise strengthen the councils of the nation against the recurrence of similar causes and results, and which may encourage the Administration of the country to adhere to its existing wise and prudent policy in regard to this great and absorbing subject: and

Whereas, the Constitution of the United States contemplates a Treasury to be held by the Government, wholly free from any necessary connection with banks, and the present crisis, as well as times

past, have demonstrated the wisdom of such a measure; this General Assembly do most fully approve the policy heretofore recommended by the President of the United States in relation to what has been denominated an Independent Treasury, and believe that the passage of the measure brought forward in the last Congress, or some similar system upon this subject, would be not only prudent, but is absolutely demanded by the peculiar and remarkable vicissitudes which have acted powerfully upon the currency and commerce of our country; and, further, that such a measure would contribute to the more permanent stability of our institutions, the independence of the Government for all purposes of peace and war, to check the wild and extravagant spirit of the age that has come upon us with a reckless fury, and would ultimately tend to bring us back to sober reflection, steady pursuits, and the confirmed possession of an ample prosperity: and

Whereas, this General Assembly do believe, that the public domain of the United States should not be treated by the General Government as a mere source for the acquisition of money to the public Treasury, but by reducing the price to reasonable and moderate rates, should rather be regarded as the great and extensive means of encouragement to the augmentation of our population, and the reward of the laborer and the husbandman, (by the grant of pre-emption rights,) who in times of peril will be a powerful bulwark to the frontier, and the right arm of safety and defence against the hostile invasion of a foreign foe: and

Whereas, the liberty of speech and the freedom of the press are considered as invaded directly, or by implication, in the provisions of a bill which was brought before the Senate of the United States at the last session of Congress, entitled "a bill to prevent the interference of certain Federal officers in elections:" and

Whereas, the people of the United States have long paid a tribute of millions to the monopolists of salt, under the tax which has been imposed upon the foreign importations of that necessary article, whereby the quantity which would otherwise have been introduced into the United States has been diminished, and the price to the consumer increased: and

Whereas, reviewing the history of our Government for the last ten years, a period which will be remarkable through all future time, and looking around upon the events now being daily developed, this General Assembly have reason to congratulate the country that its destinies were cast at the approach of the great and trying events which have, within that period, rapidly succeeded each other, in the hands of our venerable and patriotic fellow-citizen, Andrew Jackson: and, whereas, his policy began the restoration of that system which was hailed in 1800, as the establishment of sound principles, and was steadily pursued by him and transmitted with the impress of his character to the hands of his distinguished successor: and, whereas, the firm and patient wisdom of the present Chief Magistrate, pursuing the same policy, has successfully conducted our domestic and foreign relations in the midst of peculiar and very extraordinary difficulties: Therefore, be it

1. *Resolved by the General Assembly of the State of Tennessee*, that our Senators in Congress be instructed, and our Representatives requested, to

vote against the chartering by Congress of a National Bank.

2. *Resolved further*, That our Senators in Congress be instructed, and our Representatives requested, to vote for, and to use all fair and proper exertions to procure the passage of a measure brought forward in the Congress of the United States, commonly called the Sub-Treasury bill, or Independent Treasury bill, the object of which was to separate the collection, keeping, and disbursement of the public money from all banks, so as to make the Treasury of the United States independent of all banks, as recommended by the President of the United States in his several messages communicated to the last Congress of the United States.

3. *Resolved further*, That this General Assembly doth unqualifiedly condemn the provisions of a bill, heretofore before the Senate of the United States at its last session, entitled "a bill to prevent the interference of certain Federal officers in elections," which bill this General Assembly doth declare to be a violation of the Constitution of the United States, which provides that "Congress shall pass no law abridging the freedom of speech and of the press," and they do as unqualifiedly condemn the vote given in favor of said bill by the Senators in Congress from this State; and our said Senators in Congress are hereby instructed, and our Representatives requested, to vote against, and to use all fair and proper exertions to prevent the passage of the same or any similar bill.

4. *Resolved further*, That our Senators in Congress be instructed, and our Representatives requested, to vote against the measure heretofore brought before Congress, which had for its object the distribution among the States, of the proceeds of the sales of the public lands, and that they be further instructed to vote for, and use all fair and proper exertions to procure the passage of a law for the graduation and reduction of the price of the public lands, and for granting pre-emption rights to the occupant settlers thereon.

5. *Resolved further*, That our Senators in Congress be instructed, and our Representatives requested, to vote for, and use all fair and proper exertions to procure the passage of a law repealing the duties on imported salt.

6. *Resolved further*, That this General Assembly doth heartily approve the leading measures and policy of the Administrations of Andrew Jackson and Martin Van Buren, and our Senators in Congress are hereby instructed, and our Representatives requested, to support, in good faith, the leading measures and policy as brought forward and advocated by the present President of the United States, and to use all fair and proper exertions to carry out, sustain, and accomplish the same.

7. *And Resolved further*, That the Governor be requested to transmit to each of our Senators and Representatives in Congress a copy of the foregoing preamble and resolutions.

JONAS E. THOMAS,

*Speaker of the House of Representatives.*

THOS. LOVE,

*Speaker of the Senate.*

Adopted 14th November, 1839.

Mr. W. said, that for the purpose of avoiding any misapprehension, or misrepresentation of his remarks in reply to the Legislature of his State, he would, with the consent of the Sen-

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ate, read from a paper he held in his hand, that reply.

Leave being unanimously accorded, Mr. W. read, at great length, his reasons for non-compliance with the instructions, and concluded by resigning his seat as a Senator of the United States.

Mr. W. said, that is the answer which, if God spares me, I intend to send, without delay, to the Legislature of Tennessee. I am no longer a member of this body; of its honors I shall receive no share; from its labors I shall be excused; and from the high responsibility which rests upon it for this and for future generations, I am now absolved. I now part from this honorable body in the same spirit by which I have ever been actuated, while associated with them; wishing them, individually and collectively, every blessing which the world can bestow; and allow me to express the hope that their conduct will ever be such that at the last moment every individual can withdraw from the world with a quiet conscience.

Mr. GRUNDY was understood to say that, as to the instructions generally, he considered them as coinciding with his own opinions, and he thought he was prepared to follow them. He had no recollection of any instructions here that differed from his own views and practice, with a single exception, which was that of the Independent Treasury. He had voted against that just before he left this body; but he had done so in obedience to instructions, and against his own judgment. He would now, therefore, vote in favor of it, agreeably to later instructions, and in accordance with his own judgment.

#### *Settlement of Florida.*

The bill for the armed occupation and settlement of that part of the Territory of Florida now overrun by marauding bands of hostile Indians, was then taken up.

Mr. BENTON said he desired, if no other Senator wished to make any remarks on the bill, to say a few words in conclusion. No other Senator manifesting a disposition to speak,

Mr. B. proceeded at length, to address the Senate in reply to the objections raised against the bill;

And after some remarks in reply by Mr. PRESTON,

The question was taken on recommitting the bill with the amendments, which was agreed to,

And the Senate adjourned.

FRIDAY, January 17.

#### *The Maine Boundary.*

On motion of Mr. BUCHANAN, in accordance with his promise on yesterday, the Senate took up the resolutions offered by Mr. WILLIAMS, calling on the President of the United States for the correspondence, not already communi-

cated, with the British Government, on the subject of the Maine Boundary, and with the British Minister and the Governor of Maine relative to the invasion of the State of Maine, and the exercise of jurisdiction in the disputed territory.

The question being on the following additional resolution, offered by Mr. RUGGLES:

*Resolved further,* That the President be requested to communicate to the Senate, so far as may not be incompatible with the public interest, whether any, and, if any, what measures have been taken, under the act of Congress of March, 1839, or otherwise, to cause the removal or expulsion of the British troops which have taken possession of a portion of the territory of Maine claimed by Great Britain; and especially whether, since the last session of Congress, any military posts have been established in Maine, or any other military measures adopted, preparatory to a just vindication of the honor and rights of the nation and of Maine, as connected with the persevering claim made by Great Britain to a portion of the territory of that State.

Mr. BUCHANAN said he scarcely knew what to say on the subject of this resolution. It would seem to contain an implied censure upon the President, which, in his humble opinion, was wholly unfounded. In regard to the course pursued by that distinguished officer in this very important and delicate matter, there was but one sentiment in his country, and all political parties had evinced their approbation of it. But the resolution of the Senator (Mr. RUGGLES) called upon him to communicate to the Senate whether any, and what measures have been taken under the act of March, 1839, or otherwise, to expel the British troops from the disputed territory; and whether, since the last session, any military posts have been established in Maine preparatory to a just vindication of the nation's honor. Now, (said Mr. B.,) every Senator knows perfectly well the only answer which the President can give to these interrogatories. Indeed, this answer has been substantially given in advance. In his annual Message, dated on the second December last, he has informed us that he had not touched a dollar of the \$10,000,000 confided to him by the act of March, 1839; and he then surrendered up the trust which had been confided to him by Congress. And why did he pursue this course? Simply because the contingency had not happened upon which he could have applied this money. There had been no invasion of our territory, or any imminent danger of such an invasion. There had been no attempt on the part of Great Britain to enforce by arms her claim to exclusive jurisdiction over the disputed territory. So far from it, that a solemn agreement had been entered into with the British authorities, for the express purpose of preventing any such attempt from being made by either nation. It was not until about the first of January that the President could possibly have heard that two com-

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panies of British troops had been stationed at the Temisconata lake, because the letter of Governor Fairfield, communicating this information, was not dated until the 28d of December. And yet the Senate are gravely called upon to adopt a resolution, asking the President whether he has taken any measures, under the act of March, 1839, to expel these troops—in the very face of his Message of the 2d December last, declaring that he had not found it necessary to use any of the powers conferred upon him by this act. Nay, more. If the President had established military posts in the disputed territory, his conduct would have been justly censurable, and would have afforded to the British Government the same cause of offence as they have afforded to us, unless it should be satisfactorily explained, in recently stationing troops at the Temisconata lake. The President's answer to these inquiries, we all know, must be in the negative; and it would, therefore, seem that the object was to cast an implied, though a very unjust, censure upon him for having done nothing.

Mr. B. said he did not know what course the President had pursued since the receipt of Governor Fairfield's letter. He presumed, however, that, as a matter of course, he had protested against this military occupation of the disputed territory by the British authorities, as a violation of the subsisting agreement and of the rights of Maine, and had asked an explanation from the British Minister. Before he attempted to expel these troops by force, he must call upon Congress to furnish him the means. Indeed, we as yet know nothing of the particular circumstances attending this military occupation, except what is contained in the letter of Governor Fairfield; he should, therefore, be glad if the Senator from Maine would withdraw his resolution; but, if he did not, Mr. B. would not object to its passage. All the information which it was in the President's power to communicate would be elicited, if it could at this time be properly communicated by the two resolutions of the Senator's colleague, (Mr. WILLIAMS.)

Mr. B. said that, on the question of the North-eastern boundary, the conduct of the President had hitherto been so fortunate as to satisfy even his political opponents. It had combined prudence with firmness, and had received the approbation of almost every reflecting man in the country. The negotiation on this important question was, if he might be permitted to use the expression, now at its very crisis; and the President had deemed it inexpedient to communicate to Congress any of the correspondence which had taken place between the two Governments since the close of the last session, doubtless because he deemed that it might have an injurious effect upon the negotiation. Judging by the past, (said Mr. B.,) surely we ought to have sufficient confidence in the President to wait for a short period, and not be calling upon him for communications

which may be injurious to the public interest, and which, if so, ought to be withheld. The final result of the negotiation will probably soon be known; and will then, as a matter of course, be submitted to Congress, with all the correspondence.

Allow me, said Mr. B., to make one general remark before I take my seat. I am very apprehensive that we may have serious difficulties with the British authorities before the close of this controversy. My earnest desire is, therefore, that our proceedings may be marked with such justice, moderation, and firmness as to justify us in the eyes of all mankind. A contest must be avoided, if this be possible consistently with national honor; and then, if it should be forced upon us, we shall be a united people.

He made these remarks without any knowledge upon the subject other than that in the possession of every Senator.

Mr. RUGGLES said he concurred fully in the resolutions of his colleague, asking for copies of correspondence. But Mr. R.'s amendment went further, and asked information as to what had been done—not merely what had been said, but what had been done by the President; and Mr. R. would be glad to know what had been done under the act of 1839, or by any other authority. He had not been aware that his amendment could be construed into any disrespect or censure of the President: certainly it was not intended. It was a simple inquiry; and if the President had not done what he ought, Mr. R. would leave that matter to be decided by the State which he represented. Mr. R. also believed that the President might have done something since the second of December, under some authority, which he had not yet made known, and which it was worth while to know. He at least might have taken some precautionary measures, such, at least, as making surveys, for it was to be presumed that the President had his eye on what was known to the public, especially as he could not but have apprehended the risk of difficulty as well as the Senator from Pennsylvania and Mr. R. himself.

They had learned from the President himself, that commissioners had been appointed to make a survey of the country, and report, not to this, but to the British Government. And what had that commission done? They had gone up the St. John's River, crossing the line on their way to the west, to the head waters of the St. John's, which were contiguous to those of the Aroostook; and they had then gone down the Aroostook, and had entirely avoided that section of country which was designated by the treaty of 1783, and where the highlands were to be found as pointed out by the treaty. And now Mr. R. would ask the Senator from Pennsylvania, if he believed for a moment that all this was for the purpose of ascertaining the facts in regard to the treaty? It had, on the contrary, been apprehended that thus, under



cover of the treaty, it was for the purpose of seeking out military posts, and not of finding those marks and monuments which the treaty designated. This suspicion might be unfounded; but the apprehension itself which the Senator from Pennsylvania had expressed, seemed to warrant this inference of the people of Maine in reference to this survey. They had surveyed the rivers, and not the highlands; and this went to warrant the inference that the object of the survey was to get information for the Government of Britain that might be useful to them in case of the event which the Senator apprehended. And if such was their object, was it not proper to ask the President whether he had taken any precautionary measures, at least so far as to make a similar examination, especially as there was not a question in Congress or the country as to the right of Maine to the territory in dispute.

Mr. R. said further, that there had been a palpable and admitted violation of the arrangement entered into by the mediation of General Scott, of which the President could not but have been aware; and, in respect to caution, there had been abundance of that. The British Government had been cautious enough never to have a minister here with power to adjust the controversy; here, and here only, where the adjustment ought to have been made. They had now been cautious enough to send on this singularly conducted commission one of the ablest engineers of England, as if for the very purpose of a military survey. Mr. R. hoped, therefore, the amendment would be adopted.

Mr. ALLEN admitted the delicacy of this matter; but delicate as it was, Congress, the Executive, and the whole American people were united as one man on the merits of this great question, and in according the right over the disputed territory to the State of Maine. Mr. A. ardently desired that this unanimity might be disturbed by nothing even doubtful or ambiguous; and if this resolution were doubtful in its character, he thought it ought to be so modified as to remove all ambiguity.

Mr. BUCHANAN said he would cautiously avoid, on this occasion, any debate on the general subject. His opinions were sufficiently well known to render this unnecessary. There were three resolutions before the Senate for consideration; two of them, which he thought entirely proper, called on the President for all the correspondence between the British Minister and the Governor of Maine, the British Government and our own Government, on the subject of the North-eastern boundary, which have not heretofore been communicated, provided its publication may not be deemed incompatible with the public interest. We have just heard, almost this instant, that British troops have occupied a portion of the disputed territory. The Senator from Maine, (Mr. WILLIAMS,) ever true to his trust, offers a resolution, calling upon the President for all the

information in his possession, the publication of which he might not deem improper. All this was very proper; but what did the resolution of the other Senator (Mr. RUGGLES) propose? Why, that—[reads the resolution.]

Now, sir, what is the character of this resolution? And, mark me, sir, I do not oppose its passage, but I will make a single remark. Suppose the President had established military posts in the disputed territory, as this resolution intimates he ought to have done, would it not have been a direct violation of the agreement concluded between General Scott and Sir John Harvey? Had the President acted in this manner, he would have violated the spirit, as the British, if our late information should prove to be correct, had done both the letter and spirit of this agreement. The agreement had procured us peace on the border, and, in my opinion, should not have been lightly disturbed. The President is asked what he has done under the act of March, 1839, when the President has expressly informed us that he has done nothing, because the contingency contemplated in that act had not occurred at the date of his Message. The negotiation was then proceeding amicably, as the President had informed us, and he hoped it might progress in the same spirit until it reached a peaceful termination.

Mr. CLAY, of Kentucky, said it always gave him great pleasure to concur, when he could, in the views of the chairman of the Committee on Foreign Relations. But he must now differ from him so far as to think that there was not the slightest imputation on the President in this resolution; and the Senator himself seemed to admit as much when he said he should make no objection to its adoption. And further, the mover of the resolution had himself declared that he had no purpose whatever of censure. That Senator was deeply interested in this matter, and was even laudably desirous to know all that could be known about it consistent with the public interest. And to what had we come, if the President was to be asked no question in regard to his official duties? And was there nothing to be allowed to a State whose rights had been so long withheld? Sir, (said Mr. C.,) while we guard the President, let us not be insensible to the feelings and just rights of a member of this Confederacy. On this subject he saw no occasion to censure the President, but God knows he is sufficiently amenable to censure without going out of the way to find it. Sir, I think there is no imputation in the resolution, and I hope it will be allowed to be passed.

Mr. BUCHANAN said that he felt so much confidence in the Senator's ability to construe the meaning of language correctly, and was so much pleased with the approbation he had expressed of the President's conduct in regard to the Maine boundary controversy, that he was willing to forego his own opinion of the character of this resolution. It was true that this

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approbation had been accompanied by a protestation that the President was sufficiently censurable on other questions. As to the Senator's "God knows," &c., when he brings forward his bill of particulars, Mr. B. trusted that the friends of the President would be able to defend him triumphantly. At present Mr. B. was content with the admission in favor of the President's conduct respecting the Maine controversy, and he would now vote with more cheerfulness for the resolution.

Mr. DAVIS said he had listened yesterday and to-day to the idea that this resolution implied censure on the President; but it had never entered his mind at all; and as to adopting the resolution, or an equivalent, there could be no doubt. The sentiment throughout Congress and the country was unanimous in favor of the right of Maine; and what the President in his late Message had said was, we all felt deeply to be true, that the controversy had continued too long. It was full time for it to be brought to a close. And who knew what might be the present state of facts? At the last session, such was the excitement in the public mind, that when the British were about to take possession of this territory, there was great indignation manifested here and generally. Maine thought it her duty to repel that invasion. And how was the difficulty adjusted? By the mediation of General Scott, sent by this Government, between Maine and New Brunswick. There was now intelligence, very nearly official, that the territory was in the occupation of British troops, to remain there through the winter; and there was even an admission by the Governor of New Brunswick that the agreement then entered into had been violated. And what was the explanation of the Governor? That it had been done, not by his authority, but by one still higher, viz: that of the Governor General of Canada. Mr. D. thought there was every reason to be on the alert on this subject, and though he would violate no delicacy, he would not, on the other hand, forbear, till forbearance might well and justly be construed into tame submission. Very near, if not quite, to this point we had already gone, and he thought there was danger that the British Government might so construe it, and act accordingly. Mr. D. therefore insisted that this resolution, or something like it, ought to pass.

Mr. WILLIAMS said when he offered his resolution, he supposed it would bring all the correspondence, which the amendment proposed calling for, and he saw no objection to the resolution, and hoped it would be adopted.

Mr. ALLEN said he was entirely satisfied with the disclaimers of the mover, and other gentlemen of the Opposition, of any intended censure. With these disclaimers, he had no objection to the passage of the resolution.

The resolutions were then adopted.

#### *Armed Occupation of Florida.*

Mr. BENTON, from the Committee on Military Affairs, to which had been referred the bill for the armed occupation and settlement of that part of Florida overrun and infested by marauding hands of hostile Indians, reported the same with amendments, the purport of which was to render the settlers under the provisions of the bill amenable to the laws of the Territory. The amendment was agreed to, and the bill was ordered to be engrossed for a third reading.

On motion of Mr. MERRICK, the memorial and papers of John Kurtz, owner of the ship Alleghany, were referred to a Select Committee.

#### *The Independent Treasury Bill*

was then taken up, and, after being discussed by Messrs. HENDERSON, WRIGHT, DAVIS, BUCHANAN, WALKER, and YOUNG, and the adoption of some unimportant amendments, was ordered to be engrossed for a third reading by the following vote:

YEAS.—Messrs. Allen, Benton, Brown, Buchanan, Calhoun, Clay of Alabama, Cuthbert, Fulton, Grundy, Hubbard, King, Linn, Lumpkin, Mouton, Norvell, Pierce, Roane, Sevier, Smith of Connecticut, Strange, Tappan, Walker, Williams, and Wright—24.

NAYS.—Messrs. Betts, Clay of Kentucky, Crittenden, Davis, Dixon, Henderson, Knight, Merrick, Nicholas, Phelps, Prentiss, Preston, Robinson, Rugles, Smith of Indiana, White, and Young—18.

The Senate then adjourned until Monday next.

MONDAY, JANUARY 20.

#### *Armed Occupation of Florida.*

The bill for the armed occupation and settlement of that part of the Territory of Florida infested by marauding bands of hostile Indians, was taken up on its third reading.

After some remarks from Mr. PRESTON in opposition to the bill, the question was taken on the passage of the bill, and resulted as follows:

YEAS.—Messrs. Allen, Benton, Brown, Buchanan, Calhoun, Clay of Alabama, Cuthbert, Fulton, Grundy, Hubbard, King, Linn, Lumpkin, Mouton, Nicholas, Pierce, Roane, Robinson, Sevier, Smith of Connecticut, Walker, Williams, Wright, and Young—25.

NAYS.—Messrs. Betts, Clay of Kentucky, Clayton, Crittenden, Davis, Dixon, Henderson, Knight, Merrick, Phelps, Prentiss, Preston, Smith of Indiana, Strange, and White—15.

So the bill was passed.

TUESDAY, JANUARY 21.

#### *The Independent Treasury Bill*

was then taken up, and, after a speech of

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much ability from Mr. WALKER, was, on motion of Mr. BUCHANAN, informally passed over.

The Senate then went into Executive business, and afterwards

Adjourned.

WEDNESDAY, JANUARY 22.

*The Independent Treasury Bill*

was then taken up, and Mr. BUCHANAN spoke at great length, and with much ability, in defence of the bill, and in reply to Mr. CLAY, who rejoined; and after some further remarks from Messrs. BUCHANAN, CLAY of Kentucky, and WALKER,

On motion of Mr. HENDERSON,  
The Senate adjourned.

THURSDAY, JANUARY 28.

The CHAIR submitted a Message from the President of the United States, in compliance with the resolution of the Senate of the 17th inst., a portion of which was read, as follows:

DEPARTMENT OF STATE,  
Washington, November 6, 1839.

SIR: The British Minister, in a note addressed on the 2d instant, to this Department, states that information, which had reached his Government in England, and more recent intelligence received by himself from the authorities of the Province of New Brunswick, had made it his duty to call the attention of the Government of the United States to the alleged facts that—1stly. The armed posse stationed by the State of Maine, for the protection of the public property in the disputed territory, had extended its operation, and its armed occupation of the country along the whole way from the valley of the Aroostook to the mouth of Fish River, into the valley of the St. Johns, and thus into a portion of the Madawaska settlements. 2dly. That the establishments formed by persons composing the armed parties, on the banks both of the Aroostook and the Fish River, had assumed an aspect and character decidedly military, and more representing a permanent national possession of the country, than could be required in the civil posse of a land agent, temporarily occupying it for the sole purpose of preventing trespasses. That those establishments were fortified with intrenchments and cannon, and garrisoned by a number of armed men, far greater than the occasion would warrant. 3dly. That a permanent State road is being constructed, leading into the valley of the Aroostook, and from thence on the south side of the St. Johns, to the Fish River; the object of which is to connect those portions of the disputed territory, with the towns of Augusta and Bangor, and other acknowledged parts of the State of Maine. 4thly. That, moreover, land surveyors, acting under the authority of the State, are employed in marking out lots and townships within the same portion of the disputed territory; and that sales of lands are being made, with deeds regularly drawn under the authority of Maine.

The British minister protested in the name of his Government, against acts of encroachment on the part of the people of Maine, as being at variance with the agreements entered into in the month of Feb-

ruary last, first between him and the Secretary of State at Washington, and subsequently, by your Excellency, the Governor of New Brunswick, and Major General Scott, for the purpose of averting the danger of local collision on the frontier, pending the final settlement of the boundary question between the two Governments, thinks that the establishment, in the mean time, of the new interests, and the growing up, as it were, of new proprietary claims upon the lands yet in dispute which are likely to be the result of the acts referred to, may end by embarrassing the action of both Governments.

In support of this opinion, Mr. Fox states that a similar reasoning was held on the part of the United States, when, in the year 1837, this Government remonstrated against an alleged act, or design rather, of encroachment of a less objectionable character than the operations to which he refers, namely, the survey of a projected line of railroad from Quebec to St. Andrews, passing through a part of the disputed territory, and he adds that, for the preservation of peace between the people on both sides, and of good will between the two nations, such acts as those complained of ought to be desisted from, and the existing arrangements observed in good faith.

The President, to whom Mr. Fox's note had been communicated, has directed me to express to you his anxious desire, that no occasion should be permitted to call in question the faithful observance by the Governments of the United States and Maine, of the arrangements referred to, a sentiment in which he is confident your Excellency will freely concur, and to request that you will transmit to this Department such information as may be in possession of the Government of Maine, in relation to the acts referred to, in order that an appropriate answer may soon be returned to Mr. Fox's communication.

I have the honor to be, &c., &c.,

A. VAIL, Acting Secretary.

His Excellency JOHN FAIRFIELD.

Governor of the State of Maine.

*The Governor of Maine to the Acting Secretary of State.*

EXECUTIVE DEPARTMENT,  
Saco, November 21, 1839.

SIR: I have the honor to acknowledge the receipt of your communication of the 6th instant, reciting certain complaints that have been made by the British Government, through its Minister, Mr. Fox, of the authorities of this State for certain alleged proceedings on the part of the latter, in relation to "the disputed territory;" and I lose no time in complying with the request "to transmit such information as may be in the possession of the Government of Maine in relation to the acts referred to, in order that an appropriate answer may soon be returned to Mr. Fox's communication."

The first complaint is "that the armed posse stationed by the State of Maine for the protection of the public property in the disputed territory, advancing beyond the stipulated limits, has extended its occupation of the country along the whole way from the valley of the Aroostook to the mouth of Fish River into the valley of the St. Johns, and thus into a portion of the Madawaska settlements."

This complaint is probably founded on the following facts: Early last spring, the land agent of the State sent a small force, consisting of some twenty-five men, to Fish River, to disperse a band of tres-

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passers understood to be operating at that place. The enterprise was successful. Their camps were broken up, some of the trespassers driven off, and a few, with their teams, were brought out to the settlement on the Aroostook, though subsequently released. The land agent deeming his work but half accomplished, again sent a small force, of about the same number of men as composed the first party, to the mouth of the Fish River, to extend a boom across it to prevent the timber, which had been cut by the trespassers, being driven out into the St. Johns, and to prevent further depredations by cutting. That force has remained there until the present time; and has, I believe, been signally successful in accomplishing the objects of the expedition.

This proceeding violates no stipulation ever entered into by the authorities of this State. In no proper sense can the Madawaska settlements be said to include the territory as far west as Fish River, upon either side of the St. Johns, it being a distance of some twenty-five miles above it, and the two not being connected by continuous occupations or settlements. But, supposing the Fish River territory to be a part of the Madawaska settlements, even then, I maintain, there has been no infringement of the stipulations on the part of this State, referred to by Mr. Fox. In that arrangement, negotiated through the agency of General Scott, the right was not relinquished, on the part of this State, of going *anywhere* upon the *disputed territory* with an armed posse, for the purpose of protecting the timber then recently cut, and to prevent further depredations; but such right was expressly reserved, or rather the intention of exercising it was distinctly avowed.

So far as I am informed, the armed posse have confined their operations to the objects before stated, and have given no just cause of complaint, unless the prohibiting Colonel McLaughlin, the provincial land agent, from driving timber down the St. Johns into the province of New Brunswick, constitutes such cause. And, in regard to this, I must be permitted to say that the authorities of Maine can see no reason for making a distinction between persons attempting to drive our timber from the State into a foreign jurisdiction, whatever may be the pretence set up.

Secondly, it is alleged "that the establishments formed by persons composing the armed parties on the banks, both of the Aroostook and Fish River, had assumed an aspect and character more decidedly military, and more resembling a permanent national possession of the country, than could be required in the civil posse of a land agent temporarily occupying it for the sole purpose of preventing trespasses. That these establishments were fortified with intrenchments and cannon, and garrisoned by a number of armed men far greater than the occasion would warrant."

The party at Fish River, as before stated, is composed of about twenty-five men—not militia or soldiers, but hired laborers. A boom has by them been thrown across the river to stop the timber in its passage down. They have erected a blockhouse near the boom, and are armed with muskets. If this assumes "an aspect and character," in the eyes of our provincial neighbors, "decidedly military," we hope it is not formidable enough to create any alarm. But whether it is a force more than sufficient to protect the public property of the State from numerous bands of lawless men, grown desperate by being deprived of their accustomed plunder, and over whom their own Government seems heretofore to have had but little control, is a question which this State must

be permitted to decide for itself. In such a case it would be degrading to consent that limits should be prescribed by any power whatever. If the right to protect our territory from invasion, and the public property from plunder, be clear and undeniable, no less so is the choice of means for carrying that right into effect.

Upon the Aroostook a large number of men have been employed. A boom has been extended across the river—a fortification of hewn timber erected near it—and a blockhouse and a few other more temporary buildings put up. The men stationed at what is called the Fort, say twenty-five or thirty in number, are armed with muskets, and I believe they have also two small pieces of artillery. The remainder, say one hundred to one hundred and twenty-five, have been engaged for the most part in opening roads for summer as well as winter communication and preparing facilities for supplying the posse. How far these proceedings furnish ground for the complaints of the British Government, you will judge. That any preparations short of them would have been insufficient to protect the public property, to me seems to be clear. At all events, the complaint at the extent of this force, was hardly to have been expected from the British Government just at this moment, when a few days only have elapsed since some fifty of its own subjects, bearing the Queen's arms, and otherwise suitably equipped, headed by a veteran militia captain, made an assault in the dead of night upon that very force which is now described as "greater than the occasion would warrant."

No better justification is needed for the course which has been pursued by Maine, especially in regard to the force employed, than a reference to this case. Nor is the force of the circumstance diminished by the fact, that this attack was repulsed by the firing of but one gun; for a disposition is manifested which may not always exhibit itself in so harmless a manner. Again, the complaint that our "establishments upon the disputed territory fortified with intrenchments and cannon," would seem to come with but little show of consistency from the British Government, when it has just completed most extensive and permanent barracks upon the same territory, north of the St. Johns, and is in the habit of transporting troops and munitions of war over it at their pleasure.

The third allegation is, "that a permanent State road is being constructed, leading into the valley of the Aroostook, and from thence, on the south side of the St. Johns to the Fish River, the object of which is to connect those portions of the disputed territory with the towns of Augusta and Bangor, and other acknowledged parts of the State of Maine."

That a road commencing near Mattawamkeag point, in the county of Penobscot, extending to the Aroostook River, and thence on to the mouth of Fish River, upon the St. Johns, is in process of construction, and is even now passable the whole way with some vehicles, is certainly true. But it is not perceived why, at this particular time, it should be regarded as a cause of complaint. This is no new thing. An appropriation for this road was made by the Legislature of this State as early as 1826; from which time it has steadily progressed, and in another year, probably, will be nearly, if not quite, completed. To say nothing of other advantages anticipated from it, it is manifest that it will afford great facilities for preventing trespasses upon the public lands; and indeed, I may say that trespassing on the streams

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emptying high up upon the St. Johns, cannot be prevented without such a road. This, therefore, is no new project, got up in violation of any stipulation or understanding, to which this State has in any way been a party, or for the purpose of gaining an additional extent of possession; but is the exercise of a lawful right over that portion of the territory to which we have not only the legal title, but over which we have ever had possession and jurisdiction.

But, again, may I not inquire with what propriety and consistency this complaint is made on the part of Great Britain, when she has herself constructed a permanent railroad over a large part of the territory north of the St. Johns, which, it is understood, was very thoroughly repaired the present season, and over which her subjects are constantly passing.

The last allegation is, "that land surveyors, acting under the authority of the State, are employed in marking out lots and townships within the same portion of the disputed territory, and that sales of land are being made with deeds regularly drawn under the authority of Maine."

That Maine is now managing, in the particulars mentioned, the lands upon the Aroostook, and those north of the St. Johns, in the same manner that she has been accustomed to since her separation from Massachusetts, and as that State managed them prior to that period, is true. For the last thirty years we have been occasionally surveying and lotting these lands, granting them for literary, charitable, and religious purposes, and selling in small lots to actual settlers. And has this boundary question so far advanced, it may be asked, that we cannot now do, without a remonstrance on the part of the British Government, what we have been so long in the habit of doing? Has the almost interminable negotiations—all the efforts that have been put forth—all the events that have occurred—especially the exciting events of the last year, but served to weaken our title, diminish our rights, and curtail our privileges? Sure I am that Maine will not readily adopt such a view, or quietly yield to its consequences. She has been indulging the hope that some progress made towards an acknowledgment of her rights, and the acquisition of her property had been made, and I am well persuaded she has no disposition, at the present time, to make any retrograde movement.

In compliance with your request, I have now communicated the facts upon which the complaints of the British Government are supposed to be founded. In doing it, and in the accompanying remarks, I have had no intention or desire of producing irritation, or adding, in any degree, to the excitement already existing. This subject is far too momentous, and too nearly involves the peace of the countries interested, to justify any remarks founded in passion or feeling. But it is due to the State, whose organ, upon this occasion, I am, as well as to the whole country, to speak plainly, and without disguise. And, under this solemn impression, I must say, that Maine, in my opinion, has done nothing which she was not fully justified in doing, and nothing which she will not be ready to defend with her best powers. And further, that though she has not yet taken military possession of the disputed territory, a continued disposition, on the part of the British Government, to delay a settlement of the boundary question, will not fail, in my opinion, to induce such a step, whatever may be the consequences, should she not be relieved from that responsibility by the action of the General Government.

With the most earnest desire for a just, peaceful, and speedy settlement of the question, I have the honor to subscribe myself, with high respect, your most obedient servant,

JOHN FAIRFIELD,  
Governor of Maine.

A. VAIL, Esq., Acting Secretary of State.

*The Governor of Maine to the President of the United States.*

STATE OF MAINE, EXECUTIVE DEPARTMENT,  
Augusta, December 23, 1839.

SIR: It having been reported to me that a large number of British troops had been stationed at Temiscouata Lake, in the disputed territory, and seeing extracts from the provincial papers confirmatory of these reports, I deemed it proper to apply directly to the Lieutenant Governor of the Province of New Brunswick, which I did by letter of the 12th instant, to ascertain whether these reports were well founded or not. His answer, under date of December 19th, I received yesterday, while on my way to this place. My letter and the reply are both herewith enclosed. It will be perceived that two companies of British troops have actually been marched into the disputed territory, and stationed at the Temiscouata Lake, where it is well known extensive barracks had been previously erected. This is clearly a violation of the spirit of the agreement entered into between the Lieutenant Governor of New Brunswick and myself in March last, though the orders have been issued by the Governor of Lower Canada. I submit, also, whether the contingency contemplated by the act of Congress of March 3, 1839, has not occurred; whether the facts do not clearly show an invasion of the State of Maine, which the Executive Government of the United States, under the directions of the act aforesaid, as well as under the obligations of the constitution, is bound to repel.

I may add, that I am well informed that the British Government is also erecting barracks upon both sides of the St. Johns, near the mouth of the Madawaska River, and that troops are concentrating at Grand Falls. Under all these circumstances, I deem it to be my duty to call upon the Government of the United States for that protection of this State from invasion, guaranteed to her in the constitution.

With the highest respect, I am, sir, your most obedient servant,  
JOHN FAIRFIELD,  
Governor of Maine.

His Excellency MARTIN VAN BUREN,  
President of the United States.

EXECUTIVE DEPARTMENT,  
Saco, December 12, 1839.

SIR: Having seen in the public prints extracts from some of the provincial papers, stating that two regiments of British troops had been stationed at Temiscouata Lake in the disputed territory, I have been induced to inquire of your Excellency whether there be any foundation for these reports. A movement so clearly in violation of the arrangement entered into through the mediation of General Scott, I shall not permit myself to believe your Excellency would make, without stronger evidence than a newspaper paragraph.

The extreme sensitiveness of the public mind upon this subject, I trust your Excellency will perceive, affords additional reasons for an early explanation.

[1st SESS.]

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I have the honor to be, with high respect, your Excellency's obedient servant,

JOHN FAIRFIELD,  
Governor of Maine.

His Exc'y Maj. Gen. Sir JOHN HARVEY,  
Lieut. Governor, Province of New Brunswick.

GOVERNMENT HOUSE,  
Frederickton, N. B., Dec 12, 1839.

SIR: I have the honor to acknowledge the receipt, this day, of your Excellency's letter of the 12th instant.

Whatever movements of troops may have taken place on the side of Lower Canada, have been made by authority superior to mine, but I apprehend they have consisted, not of *two regiments*, but of one or two *companies*, (as small a detachment as can well be made to so great a distance, consistently with the maintenance of a due degree of discipline,) for the protection of certain buildings which have been constructed for the better accommodation of her Majesty's troops on their march between the upper and lower provinces, and of the provisions, stores, and other public property therein deposited.

A copy of your Excellency's letter shall be transmitted by me to the authorities in Canada, who, I can assure your Excellency, are as anxious as I am that the spirit as well as the letter of the agreement entered into between your Excellency and myself, under the mediation of Gen. Scott in March last, should be scrupulously observed on our part.

I have the honor to be, with high respect, your Excellency's most obedient humble servant,

J. HARVEY,

Maj. Gen. Lt. Gov. New Brunswick.

His Excellency Gov. FAIRFIELD,  
Saco, State of Maine.

*Secretary of State to the Governor of Maine.*

DEPARTMENT OF STATE,  
Washington, January 2, 1840.

SIR: Your letter of the 23d ultimo, to the President, has, with its enclosures, been received and referred to this Department. The information therein contained, respecting the alleged occupation by British troops, of a portion of the disputed territory, had before reached him from another quarter, and, by his direction, had immediately been made the subject of representations from this Department to the British Minister, accompanied by a request that he would communicate such information in relation to the subject as he might have in his possession, or could obtain from the British colonial authorities. Presuming that the desired information is to be procured from the last-mentioned source, sufficient time has not yet been afforded for that purpose; but I am instructed by the President to state, that so soon as an answer is received from the British Minister, its purport shall be communicated to your Excellency.

I have the honor to be, respectfully, your Excellency's obedient servant,

JOHN FORSYTH.

His Excellency JOHN FAIRFIELD,  
Governor of Maine.

*Mr. Fox to Mr. Forsyth.*

WASHINGTON, November 2, 1839.

Information which has been reported to her Britannic Majesty's Government in England, and more recent intelligence which has been conveyed to the

undersigned by the British authorities in the Province of New Brunswick, make it the duty of the undersigned, her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, to call the immediate and serious attention of the Government of the United States to the extensive and unscrupulous (although it is to be hoped and believed the unauthorized) acts of encroachment which continue to be carried on by the people of the State of Maine, within the line of the disputed territory.

It is unnecessary here to recapitulate the terms of the several agreements which were entered into in the months of February and March last, first between the Secretary of State of the United States and the undersigned, at Washington, and afterward between the Lieutenant Governor of New Brunswick, the Governor of Maine, and Major General Scott, of the United States army, for the purpose of averting the danger of local collision upon the frontier, pending the final settlement of the boundary question, between the Governments of Great Britain and the United States. The terms of those agreements, and their true intent and meaning, are sufficiently well known. Her Majesty's authorities have, on their part, not only scrupulously adhered to the letter and spirit of the engagements referred to, but they have been desirous upon every occasion of interpreting in the most frank and liberal manner any point upon which a doubt or cavil could arise.

The undersigned, however, regrets to say that the same correct and scrupulous observance has not marked the conduct of the people of Maine, or that of the subordinate officers employed by the Government of the State.

The armed posse from the State of Maine, which it was agreed upon should be allowed to remain in the disputed territory, within certain limits, for the purpose of guarding the timber upon the disputed lands from waste and spoliation, has already advanced, it appears, far beyond those limits, extending its operations, and its armed occupation of the country, along the whole way from the valley of the Aroostook to the mouth of the Fish River, into the valley of the upper St. Johns, and thus into a portion of the Madawaska settlements. All this clearly at variance with the terms and spirit of the engagements signed by the Governor of Maine, under the sanction and guarantee of Gen. Scott.

The establishments, also, which have been formed by the persons composing the armed parties, on the banks both of the Aroostook and of the Fish River, have assumed an aspect and character more decidedly military, and more resembling a permanent national possession of the country than can be either required or justified in the civil posse of a land agent, holding, for the sole purpose of preventing trespasses, the temporary occupation of a district which is claimed by two parties, and the title to which is not yet settled between them. These establishments or stations are fortified with intrenchments and with cannon; and the number of armed men composing their garrisons is far greater than the occasion can warrant. A permanent State road is also being constructed from the frontier of Maine into the valley of the Aroostook, and from thence on the south side of the St. Johns to the Fish River, the object of which road is to connect those portions of the disputed territory with the towns of Augusta and Bangor and other acknowledged parts of the State of Maine.

It moreover appears that land surveyors, acting under the authority of the State of Maine, are em-

ployed in marking out lots and townships within the aforesaid portion of the disputed territory; and that sales of lands are being made, with deeds regularly drawn under the authority of the State, as if those lands, lying within a region which her Majesty's Government confidently claims to be a rightful possession of the British crown, formed, on the contrary, a recognized part of the public domain of the State of Maine.

It is true that the present course of encroachment, and the wrongful occupation of the land by the citizens of Maine, whether acting as unauthorized individuals, or with the sanction of the authorities of the State, cannot in any way place in jeopardy the eventual rights of Great Britain, for whatever shall be the line of boundary between her Majesty's possessions and the Republic of the United States, definitely recognized and decided upon by the two Governments, either through the attainment of the true line of the treaty of 1783, or through the adoption of a conventional line, her Majesty's Government will have to rely upon the Federal Government of the United States in conjunction with the Government of her Majesty, to assert and carry out the decision, whatever may be the views and pretensions of the inhabitants of the State of Maine notwithstanding. But it is evident that the establishment, in the mean time, of new interests, and the growing up, as it were, of new proprietary claims upon the lands which are yet in dispute, may end by embarrassing the action of both Governments; of the Government to which the district shall be finally allotted, and of the Government which will be called upon definitely to relinquish it.

The same argument has been held, and the same principle has been contended for, by the Government of the United States no less than by the Government of Great Britain. It will be in the immediate recollection of the Government of the United States, that when, in the year 1837, an alleged act, or design rather, of encroachment, of a far less direct or objectionable character than the operation referred to in the present note, namely, the survey of a projected line of railroad from Quebec to St. Andrews, passing through a part of the disputed territory, was complained of and remonstrated against by the President, her Majesty's Government immediately consented to order that survey to be relinquished. The undersigned cannot doubt but that the Government of the United States will now, on their part, be guided by a similar and reciprocal disposition.

The undersigned, therefore, while protesting, in the first place, formally, in the name of his Government, against the acts of encroachment by the people of Maine, above enumerated and complained of, urgently, also, and for the ends of peace and good will, appeals to the Government of the United States to cause those acts of encroachment to be desisted from, in order that whenever a practical adjustment of the line of boundary shall be obtained, no minor or incidental occasions of dispute may remain to obstruct that final and friendly settlement of the controversy, which the undersigned feels persuaded it is the equally earnest desire of both Governments to accomplish.

The undersigned avails himself of this occasion to renew to the Secretary of State of the United States the assurance of his distinguished consideration.

H. S. FOX.

HON. JOHN FORSYTH, &c., &c., &c.

*Mr. Forsyth to Mr. Fox.*

DEPARTMENT OF STATE,

Washington, December 24, 1839.

The undersigned, Secretary of State of the United States, having, in pursuance of directions from the President, requested the Governor of Maine to communicate to him such information as might be in his possession in relation to a complaint preferred by Mr. Fox, Envoy Extraordinary and Minister Plenipotentiary of Great Britain, in a note dated the 2d ultimo, of alleged encroachments on the part of the State of Maine upon the territory in dispute on the North-eastern frontier of the United States, is enabled, by a recent communication from the Governor of the State, to lay before Mr. Fox, for the information of his Government, the following statements and observations:

With reference to the first ground of complaint, the undersigned is informed that, early last spring, the land agent of Maine despatched a small force, consisting of about twenty-five men, to Fish River, for the purpose of dispersing a band of trespassers understood to have been operating at that place, in consequence of which the trespassers' camps were broken up, some of them driven off, and a few, with their teams, brought to the settlement on the Aroostook, but subsequently released: that the land agent, in further pursuance of what he deemed his duty, again sent a party of about the same number of men to the mouth of Fish River, to extend a boom across it, in order to prevent the timber, which had been cut by the trespassers, from being driven out into the St. Johns, and to hinder further depredations by cutting. The object of the expedition had been accomplished, and the party remained on the ground, at the date of the Governor's communication.

So far the undersigned is unable to perceive that any thing has been done by the people of Maine, in any way contravening the spirit of the agreement entered into with Mr. Fox, or that of the arrangement proposed by General Scott, and subscribed to by the authorities of Maine and New Brunswick. In the first place, the territory contiguous to the mouth of the Fish River, on either side of the St. Johns, can, in no proper sense, be considered as included in the Madawaska settlement. It is distant some twenty-five miles above it, and the two points are not connected by any continuous occupations or settlements of the country. But even if the points referred to formed part of the Madawaska settlement, the agreement of the 27th of February stipulated that in the event of necessity for dispersing notorious trespassers, or protecting public property from depredation, by armed force, the operation would be conducted jointly or separately, according to agreements between the Governments of Maine and New Brunswick. Under such an agreement, negotiated through the agency of General Scott, the Governor of Maine was to maintain within the disputed territory, under a land agent, a small civil posse, armed or unarmed, to protect the timber recently cut, and to prevent further depredations, without any limitation as to the sphere of its operation within the bounds of the disputed territory. To the attainment of those ends, the action of the parties detached by the Maine land agent appears, so far as the undersigned is informed, to have been strictly confined.

1st Sess.]

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As to the military aspect and character alleged by Mr. Fox to have been assumed by the parties on the Aroostook and Fish River, it appears that those despatches to the last-mentioned points, composed, as stated, each of about twenty-five men, neither militia nor soldiers, but hired laborers, were, it is true, armed with muskets, and had extended a boom across the river, and erected a block-house for its protection and their own against the numerous bands of lawless men, grown desperate by being deprived of their accustomed plunder, and over whom her Majesty's authorities appear to have exercised but little control. Such measures of precaution cannot but be regarded as dictated by prudential motives, if not by the necessity of the case, and the fitness and extent of the preparation, appear to the undersigned questions which could not understandingly be discussed away from the scene of action, and which, of necessity, can only be properly decided by those persons whose safety was to be secured.

Upon the Aroostook, which has been the pivot of the operations of the land agent's posse, a larger number of men have been employed. They have also extended a boom across the river, and erected near it a fortification of hewn timber, and a few other more temporary buildings. The twenty-five or thirty men stationed there, are likewise armed with muskets, and, it is believed, have also two small pieces of artillery. The remainder, about one hundred and twenty-five, have, for the most part, been engaged in opening roads for summer, as well as for winter, communications, and in preparing facilities for supplying the posse. Any preparations short of these, would, it is stated, have been insufficient to protect the public property: and the authorities of Maine cannot repress a sentiment of surprise, that these should now be made a subject of complaint, when, but a short time since, the establishment was assaulted by a party of some fifty men, suitably equipped, commanded by a captain of militia, and bearing the Queen's arms, in the repulsion of which the occupants displayed a spirit of forbearance and moderation sufficiently in harmony with the avowed and sole object of their occupation of the territory; and that surprise is in no way diminished by the fact that the agents of the British Government have just completed extensive and permanent barracks on the same territory, north of the St. Johns, and are in the habit of transporting troops and munitions of war over it at their convenience.

The construction of the road leading into the valley of the Aroostook, would not, it is apprehended, have been deemed, at this time, a just cause of complaint, had Mr. Fox adverted to the fact that the work was commenced as long ago as 1826, under an appropriation by the Legislature of the State of Maine, and that from that time it has steadily advanced, so that another year will probably see it completed, from near Mattawamkeag Point, in the county of Penobscot, to the Aroostook River, and thence to the mouth of Fish River, on the St. Johns. It is, therefore, no new project, conflicting with any existing arrangement, nor with any understanding to which the State of Maine has become a party, but the exercise of a lawful right over a portion of the territory in dispute, of and over which it ever has had possession and jurisdiction. To say nothing of other advantages anticipated from the completion of the road, it will afford

great facilities for preventing trespasses upon the public lands; and, indeed, it is considered that trespassing upon the streams emptying high up upon the St. Johns, cannot be prevented without such a road.

The Governor of Maine considers, that, in carrying on the work referred to, the State has done no more that is inconsistent with the respective rights of the parties, than have the authorities of her Majesty's province, in constructing, and, recently, as it is understood, in thoroughly repairing a permanent mail road over a large portion of the territory north of the St. Johns.

The last allegation in Mr. Fox's note, forming a cause of complaint against the State of Maine, relates to her management of the lands upon the Aroostook. In this particular, the undersigned is enabled to observe that the proceedings complained of differ, in no way, from those which Maine, since her separation from Massachusetts, and the last-named State previously to it, have ever pursued in regard to the public lands. For the last thirty years the State has been occasionally surveying and lotting those lands, granting them for literary, charitable, and religious purposes, and selling them in small lots to actual settlers. Of this right, so long exercised, Maine alleges that she has done nothing to divest herself, and that the discussions and negotiations upon the Maine question of boundary could not have had the effect of weakening her title to rights she had so long been in the habit of enjoying.

It is with no little surprise that, in the face of the complaints, which form the subject of Mr. Fox's note, the President has received intelligence of her Majesty's colonial authorities having recently stationed a regiment of regular troops, part at the north, and part at the south end of Lake Temiscouata, and of her Majesty's forces having commenced building barracks on both sides of the St. Johns, at its confluence with the Madawaska. Such proceedings on the part of the agents of the British Government would, if true, constitute such a flagrant contravention to the existing understanding between the parties, that the President cannot but hope that the report which has reached him of the occupation referred to, is founded upon incorrect information.

The undersigned requests that Mr. Fox will communicate to him such information, if any, as he may have in his possession in relation to the subject, and that he will, by such representations as the circumstances, if founded in fact, will obviously suggest, impress her Majesty's colonial authorities with a sense of the inexpediency and imprudence of such proceedings, and of the unhappy consequences likely to attend their persistence therein.

The undersigned avails himself of this occasion to renew to Mr. Fox the assurance of his distinguished consideration. JOHN FORSYTH.

HENRY S. FOX, Esq., &c., &c., &c.

*Mr. Fox to Mr. Forsyth.*

WASHINGTON, Jan. 12, 1840.

The undersigned, her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has the honor to acknowledge the receipt of the official note addressed to him by the Secretary of State of the United States, on the 24th of December, in



reply to a previous note, which, by direction of his Government, the undersigned had addressed to the Secretary of State on the 2d of November, in relation to various and continued acts of encroachment committed by the authorities and inhabitants of the State of Maine, within that tract of territory on the North-eastern frontier of the United States, the true title to the possession of which, according to the terms of the treaty of 1783, is at present in dispute between the British and American Governments.

The undersigned has lost no time in transmitting to her Majesty's Government the official note of the Secretary of State. He has, in the mean time, to express his extreme regret that the explanations furnished by the authorities of the State of Maine, and communicated to the undersigned by the Secretary of State, in relation to the encroachments complained of, both as regards the construction of roads and public works, and the sale and alienation of lands, are of a character which must render them altogether unsatisfactory to the Government of Great Britain. It would appear, in fact, as if a reference by the General Government to the authorities of Maine, of the complaints preferred by Great Britain, had produced no other reply or explanation from the authorities of Maine, than a reiteration of their intention to persist in the commission of the acts complained of, whether in accordance with the obligations of international justice or not.

The undersigned does not permit himself to relinquish the hope that, through the wisdom and integrity of the General Government of the United States, in unison with the sincere endeavors of her Majesty's Government, it will still be found possible to bring the pending controversy of the disputed boundary to a satisfactory and amicable conclusion; but it is certain that the public acts, and public declarations of the authorities of Maine, are continually calculated, as far as in them lies, to render such amicable conclusion more difficult and more distant.

With reference to the concluding part of the official note of the Secretary of State, wherein observations are made upon certain reported movements of British troops in the neighborhood of Lake Temiscouata, and at other points within that portion of the territory where, according to the provisional agreements entered into at the beginning of last year, no interference was to be attempted, with the exercise of British authority, pending the negotiation of the boundary question, the undersigned can distinctly assure the Secretary of State that there exists no intention on the part of her Majesty's authorities to cancel or infringe the terms of those provisional engagements, so long as the same are observed with fidelity by the other party.

The particular motives, and the amount of the present movement of troops, have been explained in a frank and satisfactory manner to the Governor of Maine by the Lieutenant Governor of New Brunswick, in a correspondence which has been made public, and which, it appears, has been officially communicated by the Governor of Maine to the President of the United States.

With regard, however, generally to the reinforcement of military posts, and other defensive and precautionary measures, whether along the confines of the disputed territory, or within that portion of it where, according to the provisional

agreements before cited, the authority of Great Britain was not to be interfered with, the undersigned has to observe, that the adoption of such measures by her Majesty's authorities cannot be, with reason, objected to or complained of by the Government of the United States, when regard is had to the reports which have for some time past been circulated, (and of the prevalence and consistency of those reports the United States Government are themselves fully aware,) respecting the probable intention of the Legislature of the State of Maine to revoke, during its present session, the provisional agreements now in force, and to authorize some new and extensive act of aggression over the stipulated territory. And the undersigned has regretted to observe that the language of the Governor of Maine, in his recent message to the Legislature, at the opening of the session, is calculated to encourage rather than to restrain such rash and obnoxious designs.

The undersigned avails himself of this occasion to repeat to the Secretary of State of the United States the assurance of his distinguished consideration.

H. S. FOX.

The Hon. JOHN FORSYTH, &c., &c., &c.

*Mr. Forsyth to Mr. Fox.*

DEPARTMENT OF STATE,  
Washington, Jan. 16, 1840.

In a note which Mr. Fox, Envoy Extraordinary and Minister Plenipotentiary of Great Britain, addressed on the 12th instant to the undersigned, Secretary of State of the United States, Mr. Fox, alluding to a complaint made by the undersigned of certain reported movements of British troops in portions of the territory in dispute between the two countries, disclaims all intention on the part of the British authorities to cancel or infringe the terms of the provisional agreement entered into at the beginning of last year; and this disclaimer is connected with an assumption of the right of Great Britain to strengthen posts, and take measures of (military) precaution, not along the line only, but within portions of the disputed territory, as, by the terms of the agreements referred to, no interference was to be attempted pending the negotiation of the boundary question, with the exercise of British authority in the neighborhood of Lake Temiscouata, "and at other points" within a portion of the territory supposed to be embraced in the terms of the arrangements. Mr. Fox having stated that he has referred to his Government the representations of the United States against the military movements alluded to, the undersigned, under a confident expectation that the matter will present itself to the minds of her Majesty's ministers in a light different from that which it is understood by Mr. Fox, would have refrained from any further remarks on the subject, but in order to obviate the risk of any misapprehension as to the views of the President concerning it, and inasmuch as the ground assumed by Mr. Fox with respect to the import of the existing arrangements would, if admitted by the United States, give to those arrangements a scope not authorized by the language in which they are expressed, nor by what is believed to be the intention of the parties, it is proper that the undersigned should call Mr. Fox's immediate attention to the express provisions of the agreement signed by him and the undersigned, and of

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*Disputed Territory—Correspondence.*

[JANUARY, 1840.]

that which was subscribed to, under the agency of General Scott, by the Governor of Maine and the Lieutenant Governor of New Brunswick.

The main object of those agreements obviously was the restoration and future maintenance of tranquillity in the disputed territory; and as the means of most surely attaining that object, the entire exclusion from its limits of all military force, to whichever side belonging, and the delegation to the civil authority exclusively, of the exercise of all power and jurisdiction. With that view, under the first mentioned of those agreements, it was only in case of necessity for dispersing notorious trespassers, or protecting public property from depredation, that armed force was to be employed on either side, and then the operation was to be conducted by concert, jointly or separately, according to agreement between the Governments of Maine and New Brunswick. The other was the result of the contemplated "concert" between the Governments of Maine and New Brunswick; was intended to carry out the object of the first, confiding to the State of Maine the duty of protecting the timber recently cut, and of preventing further depredations, and prescribed that these objects were to be accomplished through the agency of a civil posse. Accordingly, the Governor of Maine engaged to withdraw, without unnecessary delay, the military force of the State. Without regard, therefore, to the limits within which either party had before exercised jurisdiction, resort to military force, for any purpose whatever, was interdicted to both parties. With reference to the extent of territory within which each party was to continue to exercise jurisdiction, the first agreement left the question of right where it had before stood, and only expressed the conflicting understanding of that question by the Governments of the United States and Great Britain, respectively. The agreement between Governor Fairfield and Sir John Harvey provided, likewise, that the question of possession and jurisdiction should remain as it then stood; but stated where it stood, by providing that Great Britain was to continue holding, in fact, possession of a part of the territory, meaning that part embraced in the Madawaska settlements, in the occupancy of which, as well as in the enjoyment of the usual communications between New Brunswick and her Majesty's upper provinces, the Governor of Maine disclaimed all intentions of disturbing the British authorities. Beyond the Madawaska settlements, therefore, circumscribed by the limits within which they stood at the date of the agreement, the United States cannot, under the terms of that agreement, recognize in the British authorities the right of extending jurisdiction, much less that of forming any military establishments beyond or within them; and those, consequently, which formed the subject of the representations in the note of the undersigned of the 12th of December, pushed, as they are alleged to have been, into tracts of country far beyond any acknowledged limits of those settlements, and wholly unconnected with them, cannot be viewed in any other light than a bold infraction of existing arrangements. That such is a just view of the agreements, cannot be disputed by Great Britain, as her Majesty's Government has adopted and acted upon it. In the note of Mr. Fox complaining of the encroachments on the part of Maine, and of an armed occupation of part of the disputed territory by that State, both are treated as

inconsistent with the existing arrangements; and it is presumed her Majesty's Government will not attempt to apply one rule of construction to defend the military movements of its colonial authorities, and another to sustain complaints against the State Government, for acts which are not founded upon any apprehended necessity of the use of a regular military force for offensive or defensive purposes. Nor can it be imagined that it will be contended that those arrangements are not perfectly reciprocal, or that there is any difference in the character and the extent of the jurisdiction to be exercised by Great Britain in one portion, and that by the State of Maine or the United States in the other portions of the disputed territory, comprehended within the temporary arrangements made to preserve tranquillity in both, and guard against hostile collision between the State and colonial governments.

The undersigned having laid Mr. Fox's note before the President, is instructed to state to him, that no reason is perceived for doubting the disposition of the Governor of Maine scrupulously to adhere to the spirit of the existing arrangements, and to avoid all acts tending to render more difficult and distant the final adjustment of the main question of boundary between the two countries; but, in repeating assurances of the readiness of the United States Government to contribute, by all means in its power, to an amicable termination of the difference, the undersigned is bound to declare that a persistence in, or a repetition of, such acts, on the part of her Majesty's agents, as those now complained of, would, if avowed by Great Britain, be considered as but little in accordance with those assurances.

The undersigned avails himself of this occasion to renew to Mr. Fox the expression of his distinguished consideration.

JOHN FORSYTH.

HENRY S. FOX, Esq., &amp;c., &amp;c.

WAR DEPARTMENT,

January 22, 1840.

SIR: In reply to that portion of the resolution of the Senate, referred by your direction to this Department by the Secretary of State, which requests you "to communicate to the Senate, so far as may not be incompatible with the public interest, whether any, and if any, what measures have been taken under the act of Congress of March, 1839, or otherwise, to cause the removal or expulsion of the British troops, which have taken possession of a portion of the territory of Maine, claimed by Great Britain, and especially whether, since the last session of Congress, any military posts have been established in Maine, or any other military measures adopted, preparatory to a just vindication of the honor and rights of the nation and of Maine, as connected with the persevering claim made by Great Britain to a portion of the territory of that State," I have the honor to state, that the circumstance of a portion of the territory of Maine claimed by Great Britain having been occupied by British troops, was recently communicated to the Government, and having been made the subject of remonstrance, and become a matter of discussion between the two Governments, no measures of a character referred to by the resolution have been taken, either under the act of Congress of March, 1839, or otherwise.

A careful military reconnoissance of the undi-

JANUARY, 1840.]

*Assumption of State Debts.*

[26TH CONG.]

puted boundary of the State of Maine, was made in 1838, and the result submitted to the Senate during the last session of Congress; but as no appropriation was made for the erection of fortifications on the sites selected for that purpose, none were commenced; and, as is fully set forth in your last annual message to Congress, it did not appear, that the contingency contemplated by the act alluded to, had occurred, no military measures whatever were deemed necessary, or were adopted.

Very respectfully, your most obedient servant,  
J. R. POINSETT.

To the PRESIDENT of the United States.

On motion of Mr. WILLIAMS, five thousand additional copies were ordered to be printed.

## IN SENATE.

FRIDAY, January 24.

The Hon. DANIEL STURGEON, elected by the Legislature of the State of Pennsylvania, a Senator from that State, for six years, from the 4th of March, 1839, appeared, was qualified, and took his seat in the Senate.

The bill to establish a Board of Commissioners, to hear and examine claims against the United States, was taken up, and, after having been debated by Messrs. HUBBARD, CALHOUN, TAPPAN, SMITH of Connecticut, MERRICK, GRUNDY, SEVIER, PRENTISS, STRANGE, DAVIS, and HENDERSON, was postponed, and made the order of the day for Monday next.

MONDAY, January 27.

Mr. SPENCE appeared in his seat this morning.

Mr. WEBSTER, elected by the Legislature of Massachusetts, a Senator from that State for six years from the 4th of March last, appeared, was qualified, and took his seat in the Senate.

Mr. WRIGHT presented the credentials of the Hon. N. P. TALLMADGE, elected by the Legislature of New York a Senator from that State for six years from the 4th of March last; which were read.

Mr. TALLMADGE was then qualified, and took his seat in the Senate.

The CHAIR submitted a Message from the President of the United States, transmitting a report from the Acting Secretary of State, in reply to a resolution of the Senate concerning the slaves in the brigs Comet, Encomium, and Enterprise. [The report states that 23,500 pounds sterling have been appropriated by the British Parliament as a compensation to the owners of the slaves.] Laid on the table, and ordered to be printed.

*Order of the Day.*

The bill to establish a Board of Commissioners to hear and adjudge claims against the United States was taken up, and after being debated by Messrs. LINN, PRENTISS, SEVIER,

HUBBARD, and PRESTON, was postponed until to-morrow.

The Senate then adjourned.

THURSDAY, January 30.

*Assumption of State Debts.*

Mr. GRUNDY, from the Select Committee, to which was referred the resolution submitted some time since by Mr. BENTON, in opposition to the assumption of the debts of the States by the General Government, said he was directed to make a report thereon. It would be proper for him to say the committee were divided on the adoption of the report, five being in favor of it, and two—the Senator from Maryland (Mr. MERRICK) and the Senator from Indiana (Mr. SMITH)—being opposed to it.

The report was then read. It argued at length, and with great ability, the unconstitutionality and inexpediency of the assumption of State debts by the General Government, and concluded with a resolution of the same tenor.

After a debate, in which Messrs. GRUNDY, BENTON, and BROWN, advocated and sustained the doctrines of the report, and Messrs. ORITENDEN, WEBSTER, SOUTHARD, and PRESTON, opposed them,

On motion of Mr. KING,

It was recommitted to the Select Committee, And the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, January 30.

*Election of Public Printer.*

The House then proceeded to the election *vice voca*, and the roll having been called through, Mr. VANDERPOEL, on the part of the tellers, reported that there were 207 votes given, of which 104 were necessary to a choice; and that

BLAIR and RIVES received	-	110
GALES and SEATON	-	92
TH. W. WHITE	-	2
JACOB GIDEON	-	1
S. STAMBAUGH	-	1
DUFF GREEN	-	1

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The SPEAKER then announced that BLAIR and RIVES were duly elected Printers of the House.

## IN SENATE.

FRIDAY, January 31.

*Assumption of State Debts.*

Mr. GRUNDY, from the Select Committee, to which was recommitted the report submitted yesterday on the resolution offered some time since by Mr. BENTON, in opposition to the assumption of the debts of the States by the

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Abolition Petitions.

[FEBRUARY, 1840.]

General Government, reported it, with some modifications; which were read.

A discussion ensued, in which Messrs. GRUNDY, HUBBARD, and WRIGHT, sustained and advocated the report, and Messrs. PRESTON, SOUTHARD, and MERRICK opposed it; when it was informally passed over.

The Senate went into Executive business; and then

Adjourned until Monday.

MONDAY, February 8.

*Assumption of State Debts.*

The report of the Select Committee on the assumption by the Government of the debts of the States was taken up, and Mr. OLAY of Alabama made an able argument in favor of the principles of the report, and in reply to the remarks of Mr. CRITTENDEN and others.

Mr. CRITTENDEN replied to the remarks of Mr. OLAY, and

On motion of Mr. PHELPS,  
The Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, February 8.

*National Printing Office.*

The tellers who were appointed to count the vote on Friday last, under the resolution of Mr. BLACK, for the appointment of a committee to inquire into the propriety of reducing the present price of the public printing, or of establishing a National office, by Congress, to execute the same, reported the following as the result:

Whole number of votes	-	-	216
Necessary to a choice	-	-	109
Mr. BLACK received	-	-	187
J. W. DAVIS, of Indiana	-	-	180
PRENTISS	-	-	129
R. GARLAND	-	-	102
CLIFFORD	-	-	98
EVANS	-	-	94
LINCOLN	-	-	80
HOWARD	-	-	71
PARMENTER	-	-	47
BRIGGS	-	-	23
CUSHING	-	-	12

Messrs. BLACK, J. W. DAVIS, of Indiana, and PRENTISS, were declared to be elected.

The SPEAKER said it would be necessary to go into another vote to elect two others, to make the number required by the resolution.

The House again proceeded to vote *viva voce* for two members, the number requisite to constitute the committee—the same gentlemen acting as tellers. The following is the result:

Whole number of votes	-	-	188
Necessary to a choice	-	-	94
Mr. EVANS received	-	-	118
R. GARLAND	-	-	108
CLIFFORD	-	-	94

LINCOLN	-	-	-	46
LAWRENCE	-	-	-	7
S. WILLIAMS	-	-	-	4
CUSHING	-	-	-	6
W. C. JOHNSON	-	-	-	5
And scattering	-	-	-	15

Messrs. R. GARLAND and EVANS were declared to be elected.

IN SENATE.

TUESDAY, February 4.

*Abolition Petitions—Male and Female Petitioners—Refusal to present their Petitions.*

Mr. TAPPAN addressed the Senate as follows:

Mr. PRESIDENT: I hold in my hand a number of petitions, purporting to be signed by inhabitants of Harrison county, in the State of Ohio, praying Congress to abolish slavery and the slave-trade in the District of Columbia. These petitions are signed by both males and females, in the proportion of about two-thirds of the former, and one third of the latter. It is the constitutional right of every American citizen to petition Congress for a redress of grievances; and I may say here, that whenever any citizen of Ohio shall complain of any grievance, under which he may be suffering, within the constitutional competency of this Government to remove, it will give me great pleasure to present the case to this body, and to be instrumental in removing the grievance complained of.

These petitioners do not, however, set forth what particular grievance the existence of slavery and the slave-trade in the District of Columbia is to them, how they are injuriously affected by it, nor why and wherefore it should be abolished. I am left to suppose, therefore, that the interest the petitioners feel in this matter is not a particular interest, arising from any connection with the subject matter prayed for, not a grievance to them specially, but that they suppose the existence of slavery and the slave trade here is a grievance of a general and national kind, which they, with all other American citizens, have a right to petition Congress to remove. I am very far from questioning the right of any citizen of this Union to petition Congress, or their right to instruct their Representatives here as to such legislation for this District as will, in their opinion, best promote the general interests of whole Confederacy; but I mark the fact, that the petitioners were not agreed upon the nature, extent, and bearing of the supposed grievances they pray to have redressed, and were not prepared to assign any reason for their removal, as evidence that they had no particular cause of complaint in the existence of slavery here. Living at the distance of some hundred miles from the District, in a remote State of the Union, and having little or no intercourse with it, it is not to be presumed that they should be as competent to judge what legislation would best promote

the prosperity and happiness of the people here, as the citizens of the District themselves, who are to be more immediately affected by such legislation. The petitioners have, indeed, no right to interpose their wishes, or will, as to such interests as are peculiar to the population of the District, and have no bearing on the general interest of the Union. This, it may be presumed, is well known to and understood by them, and therefore the conclusion I have come to, that the petitioners have no particular interest in this matter, and have no claims to a hearing on that account, is sufficiently evident.

I have no doubt but that the constitution, by giving to Congress the power "to exercise exclusive legislation in all cases whatsoever" over this District, has given Congress the power to abolish slavery and the slave-trade here whenever the people of the District ask, or the safety of the whole Union requires it. Congress, as the constitutional Legislature of this District, have, in my judgment, a twofold duty to perform—*first*, as the Representatives of the District, not elected and chosen by the people of the District, but made by the constitution the only law-making power for it; and thereby its constitutional Representatives: *second*, as the Representatives of the whole nation. In the former capacity, the power of Congress extending "to all cases whatsoever," seems limited only by those great principles of equality and justice which lay at the foundation of all our legislation; in the latter they can exercise no powers but such as are expressly delegated to them, or such as are clearly necessary to carry into effect the powers so expressly granted. The principles adverted to, require of American legislators that they should make the happiness of the people the end and aim of all their enactments. In their first capacity, therefore, as the Legislature of the District, they are bound to consult the will and wishes of the District, in all matters which concern its inhabitants only. I conceive that the will of the people here should be the governing rule for the action of Congress, in all matters of strictly local concern; unless that will demanded something which would be injurious to the general welfare. The reason why the framers of the constitution gave to Congress, and not to a local legislature, the power of legislation over the District, was probably to prevent the possibility of any law being passed here, which might militate against the general interest of the Confederacy; and not to free Congress from the high moral obligation, incumbent on it as the Legislature of the District, to consult the wishes of the people of the District, and form its laws, so as best to promote their welfare and happiness.

But the people of the District are silent on this subject; *they* ask for no change in their domestic policy; they have heretofore remonstrated against any action by Congress on their right to hold slaves, and would probably again

remonstrate if they apprehended any danger of such action. They hold that they have a clearly legal and rightful property in and to their slaves; that the Constitution of the United States protects them in the enjoyment of such right. Now, whatever may be the opinion of the petitioners as to the right, abstractly considered, of men to hold human beings as property, this question was settled before the constitution was formed—before this ten miles square was ceded to the Union; and Congress, as legislators of the Union, have no power over it.

Next to the people of this District, those more immediately interested are the States who ceded this Territory to the United States. The cession was made by Maryland and Virginia, when, as now, both those States held slaves; and their right to this species of property was nowhere questioned. It may fairly be supposed, that when the cession was made, it was not imagined by any one that slavery would, or could be, abolished here, until it should be abolished in those States. Had such an event been thought probable, the able men who guided the counsels of those States would have guarded against an event so very threatening to their security and repose. But these States are not alone in regarding the measures prayed for by the petitioners as hostile to their interests; all the States in which slavery is held lawful, consider the agitation of this question as full of danger, and the attempt to abolish slavery here, but as a first step in an unjust and unconstitutional interference with their rights. If, then, Congress has the power to legislate for this District on this subject, as I hold they clearly have such power, they have no right to exercise this power against the will of the inhabitants of the District; against the will of those who ceded the District to the Union; and against the will of the other slaveholding States; unless, indeed, the safety of the whole Union imperiously demands such legislation of us.

When this Confederacy of States was formed, and even when the Constitution of the United States was adopted, most of the States held slaves. The laws of all (except, perhaps, Massachusetts) recognized the lawfulness of domestic slavery. Since that time, many of the States have entirely, and some others partially, abolished it; and it seems to me that it is, and has long been, in a gradual course of extinction. It is, however, an institution of the State Governments, a matter of mere State regulation, with which, as it exists in, or may be regulated by, the States, the Government of the United States, having nothing to do directly, should abstain from interfering indirectly.

As to the female signers of these petitions, I have a word to say. Nature seems to have given to the male sex the exclusive powers of Government, by giving to that sex the physical strength and energy which the exercise of those powers calls into constant and active ex-

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Election of Chaplain.

[FEBRUARY, 1840.]

ertion. To the female a more delicate physical organization is given; and she need not repine that she has not the iron nerve of her protector, man; he has the storms of life to encounter; she the calm and sunshine of domestic peace and quiet to enjoy. Hers is the domestic altar; there she ministers and commands, in all the plenitude of undisputed sway, the fountain of love and blessedness to all around her; let her not seek madly to descend from this eminence to mix with the strife of ambition or the cares of Government; the field of politics is not her appropriate arena; the powers of Government are not within her cognizance, as they could not be within her knowledge, unless she neglected higher and holier duties to acquire it. Bound by her associations, by her education and habits, as the American woman is, to the institutions and laws and manners of her country, let her evidence the soundness of her principles, by guiding the young minds committed to her maternal charge, to that same love of liberty and devotion to their country she feels, and she need not fear but that her sons will correct all the errors of Government, as experience shall point them out. For myself, I cannot recognize the right of my fair countrywomen to interfere with public affairs. Whether slavery shall be abolished in the District of Columbia or not, belongs not to them to say; much less does it belong to the women of Ohio to agitate questions of public policy, which their own State Government has often declared it wrong in her citizens to meddle with.

For these reasons, I decline presenting these petitions to the Senate.

Mr. PRESTON said there was nothing before the Senate to excuse his remarks, but he could not repress the feelings of pleasure and satisfaction with which he had listened to the eloquence and patriotic remarks of the Senator from Ohio. Should the same sentiments be expressed from other sections of the country, the incendiary spirit of Abolitionism would soon be trampled down and extinct. Standing in the political relations he did to the Senator, he could express his feelings more freely; and for himself, and in behalf of the section of the Union more particularly interested in this matter, he tendered to the Senate his sincere and heartfelt thanks.

#### *Public Lands in Wisconsin.*

Mr. WHITE presented three petitions from citizens of the Territory of Wisconsin, praying that certain lands in the Milwaukee land district may be exposed to public sale, and that pre-emption rights may be granted to the settlers thereon; which were severally referred to the Committee on the Public Lands.

#### *Law and Liabilities of Steamboats—Mr. Webster's Resolutions.*

The Senate proceeded to consider the motion submitted by Mr. WEBSTER, on the 27th ult.,

in relation to vessels propelled by steam; which was, on his motion, amended and agreed to, as follows:

*Resolved*, That the Committee on Commerce be instructed to inquire whether the laws respecting vessels propelled by steam do not require amendment, and whether it be not expedient, among other provisions, to make the following, viz:

1st. That the owners or masters of all steamboats or vessels propelled in whole or in part by steam, employed in the transportation of passengers, or of goods, wares, or merchandise, or of both, for hire, shall be deemed to all intents and purposes common carriers thereof, and shall be liable to all the duties and responsibilities imposed on such carriers by the common law. And every restriction, limitation, or qualification, of any such duties and responsibilities, by any special notice or contract, or other proceeding on the part of such carriers, shall be deemed utterly void and of no validity, or force, or effect whatever.

2d. That whenever any loss, damage, or injury, shall occur to any passenger, or to any goods, wares, or merchandise on board of any such steamboat or other vessel propelled in whole or in part by steam, from fire or steam, or collision with any other vessel, the same shall be deemed full *prima facie* evidence of negligence, sufficient to charge the proprietors of such steamboat or other vessel propelled by steam, and those in their employment, with the full amount of such loss, or damage, or injury, until they shall show, beyond any reasonable doubt, that no negligence whatever had occurred on their part.

3d. That if any inspector or inspectors, appointed under the law to which this is a supplement, shall carelessly or negligently perform the duties required of them by law, or shall make or sign any certificate required by the same act, knowing the same to contain any false statement, he or they shall be deemed guilty of high misdemeanor, and shall, on conviction thereof before any court of the United States having competent jurisdiction, be punished by fine not exceeding \$500, and by imprisonment not exceeding ninety days, according to the aggravation of the offence, and shall also be liable in civil action to all damages which shall be occasioned thereby by any person or persons whatever; and that the committee be instructed further to inquire and report to the Senate what judicial decisions have been made under the existing law, and especially whether it has been the effect of any such decision to render the existing law inoperative in any part of the country.

#### *Assumption of State Debts.*

The report of the Select Committee on the assumption by the Government of the debts of the States, was then taken up, and Mr. PHELPS addressed the Senate at length in opposition to it.

On motion of Mr. CALHOUN,  
The Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, February 4.

#### *Election of Chaplain.*

The Rev. Mr. Bates, Mr. Danforth, Mr. Babblitt, and Mr. Balch, were voted for, and the first named elected on the fifth ballot.

## IN SENATE.

WEDNESDAY, February 5.

*Assumption of State Debts.*

The report of the Select Committee on the assumption by the Government of the debts of the States, was taken up, and Mr. CALHOUN addressed the Senate at length in defence of the doctrines of the report.

Mr. PRESTON, after a few remarks, moved to lay the report on the table, which was negatived, as follows:

YEAS.—Messrs. Betts, Clay of Kentucky, Clayton, Crittenden, Dixon, Henderson, Merrick, Phelps, Prentiss, Preston, Ruggles, Smith of Indiana, Southard, Spence, Tallmadge, and White—18.

NAYS.—Messrs. Allen, Benton, Brown, Buchanan, Calhoun, Clay of Alabama, Cuthbert, Fulton, Grundy, Hubbard, King, Linn, Lumpkin, Mouton, Nicholas, Norvell, Pierce, Roane, Robinson, Sevier, Smith of Connecticut, Strange, Sturgeon, Tappan, Walker, Wall, Williams, Wright, and Young—29.

The question then coming up on printing the usual number of the report,

Mr. SMITH, of Indiana, stated that, though he was opposed to the doctrines of the report, and had been one of the minority on the committee which made it, he yet thought it was due to the committee, and to the members of the Senate agreeing with them in opinion, that the usual number of the report should be printed. For these reasons he should vote in favor of the motion.

Mr. HENDERSON expressed similar sentiments.

The motion was agreed to—ayes 36, noes 8.

Mr. GRUNDY then moved to postpone its further consideration, and make it the special order of the day for Monday next; which was agreed to.

Mr. BENTON said, in pursuance of the notice he had given, he now moved that thirty thousand additional copies of the report be printed.

Mr. LUMPKIN said that, though a member of the Select Committee which submitted this report, had this question been submitted when the report was brought in, he would not have voted for the extra number. But now, when it has been attacked with unprecedented violence, and comments on it circulated far and wide, before one-half of the members of the Senate have had an opportunity of examining it, he was for giving it as wide a circulation as the comments made upon it. He would, therefore, vote for the extra number.

The question was then taken and agreed to—ayes 27, noes 18.

The Senate then adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 5.

*New Jersey Contested Election—Speaker refuses to present a Communication from the Governor and Council of that State because not addressed to him as Speaker.*

Mr. RANDOLPH inquired of the SPEAKER

whether he had received a communication from the Governor and Council of New Jersey on the subject of the contested elections from that State.

The SPEAKER replied that he had received such a communication, but that it was addressed to him in his individual capacity as a Representative from the State of Virginia, and not in his official character as SPEAKER of the House, and therefore he had declined presenting it.

Mr. PICKENS said he should like to hear the SPEAKER's answer to the communication read.

Mr. WISE said the answer was a personal affair, solely belonging to the SPEAKER, because the communication of the Governor and Council was addressed to him in his private character, and therefore it was not necessary for him to ask the advice of the House in answering it. But inasmuch as it was a correspondence between the authorities of a sovereign State and a high officer of that House, he hoped it would be laid before them.

Mr. RANDOLPH said he felt bound, at the first opportunity, to present these resolutions himself, and he would therefore do so now, and move that they be spread upon the journal, and printed.

Mr. JAMESON asked of the CHAIR, if these resolutions had not first been addressed to him as an individual member of the House.

The SPEAKER replied that he had received certain resolutions from the Governor and Council of New Jersey, but as they were not addressed to him in his official character as SPEAKER of the House, he had declined presenting them.

Mr. R. GARLAND asked if he understood the SPEAKER as saying that he would present the report coming from the minority of the New Jersey Legislature, while he declined presenting a communication from the Governor and Council of that State.

Mr. WISE said that if gentlemen would permit the correspondence to be read, they would not only understand the motives of the SPEAKER, but would approve of his conduct. The one set of resolutions was addressed to him as a member from the State of Virginia, and denied the organization of the House, and that he was the Speaker of it. He could not, therefore, consistently with the respect he owed the House, or in justice to himself, have presented these resolutions. The other set, which came from the minority of the Legislature, was addressed to him in his official character, and therefore, it was right and proper that he should present them.

Mr. DROMGOOLE contended that the correspondence ought to be laid before the House, in order to set the conduct of the SPEAKER in its proper light. This, he thought, was due, as well to the SPEAKER as to the House.

Mr. HOLMES expressed the same views; and after some further remarks from Messrs. DROM-

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New Jersey Contested Election.

[FEBRUARY, 1840.]

GOOLE, LINCOLN, PETRIKIN, WISE, BRIGGS, F. THOMAS, and LEADBETTER,

Mr. WISE moved a suspension of the rules, in order to enable the SPEAKER to lay the communication and his answer before the House. But before taking any question,

The House adjourned.

IN SENATE.

THURSDAY, February 6.

*Military Posts on the Emigrant Route to Oregon.*

Mr. LINN submitted the following motion for consideration :

*Resolved*, That the Secretary of War be requested to send to the Senate his opinion of the expediency of establishing a line of military posts at suitable places and distances from the Missouri River, near the mouth of the Platte, into the pass or passes of the Rocky Mountains most usually traversed to descend into the valley of the Oregon or Columbia River; the effects of such a measure in giving encouragement and protection to the American fur trader; facilitating intercourse between the valley of the Mississippi and the great western ocean; aiding and protecting trading caravans; overawing and holding in check various Indian tribes, in front and rear of such posts; the number and kind of force necessary for such service; the probable cost of keeping up said posts; and whether it would be necessary to increase the military force of the United States to accomplish these objects.

HOUSE OF REPRESENTATIVES.

THURSDAY, February 6.

*New Jersey Contested Election.*

The SPEAKER begged leave to make a short explanation this morning, in relation to the subject which was under discussion yesterday evening. It had been suggested yesterday by several gentlemen, that it was probably due to himself, and to the relations he bore to the House, that he should explain the reasons which induced him to decline presenting the communication he received from the Governor and Council of New Jersey. If it should be the pleasure, therefore, of the House, he would desire to lay the correspondence referred to before it. This course would, perhaps, tend to put an end to unnecessary debate, and do away with the necessity of suspending the rules, as moved by the gentleman from Virginia, (Mr. WISE.)

The correspondence was then read, as follows :

STATE OF NEW JERSEY,  
EXECUTIVE DEPARTMENT,  
Trenton, Jan. 24, 1840.

SIR : I herewith transmit a copy of a preamble and resolutions passed by the Legislature of the State of New Jersey, at their present session, and request that you will lay the same before the Representatives of the Twenty-sixth Congress from the several States, now assembled at Washington.

I have the honor to be, with great respect, your obedient servant,

WILLIAM PENNINGTON,  
Governor of New Jersey.

HOUSE OF REPRESENTATIVES OF THE U. S.  
WASHINGTON, January 30, 1840.

To his Excellency GOV. PENNINGTON :

SIR : I have received, through you, the resolutions of the Council and General Assembly of New Jersey, a copy of which was ordered to be transmitted to "the Hon. R. M. T. HUNTER, a Representative from the State of Virginia, with the request that he will lay the same before the other Representatives from the several States now assembled at Washington." As an individual, or as a member from the State of Virginia, I should always esteem it a distinguished honor to be selected as the organ through whom the sovereign State of New Jersey might be pleased to express its wishes and opinions. But, as I have no right to suppose that the Council and General Assembly of New Jersey have designed thus to distinguish me individually, and to the exclusion of the honorable member from that State, who, with others, constitute the present House of Representatives, I feel bound to conclude, upon the consideration and from the general tenor of the resolutions themselves, that they were sent to me on account of the station which I at present occupy. Under these circumstances, I beg leave most respectfully to decline to lay these resolutions before the House over which I have the honor to preside, as, virtually, they seem to deny my title to the office of Speaker, and the right of those who have invested me with that trust.

The House of Representatives of the United States of America having elected a Speaker, has a right to expect that all communications made to it through its organ, should be addressed to him in his official capacity. Under this view of the case, it would seem that I cannot comply with the request of the Council and General Assembly of New Jersey, with a due regard to the dignity of the House, or without admitting by reference that it had conferred upon me authority which it had no right to give, and that I myself am discharging the functions of an office to which I have no title. These are admissions which I am not prepared to make.

In thus stating my views in reference to the request made of me, I raise no question as to the propriety of the resolutions themselves, nor as to the right of the Council and General Assembly of New Jersey to adopt them. I only refer to them as they relate to my official station, to show that I am influenced by no want of respect for the constituted authorities of the State of New Jersey, but governed entirely by a sense of duty to the House of which I am the organ, and which may expect that I shall not lay before them communications which refuse to accord me as such. I am not disposed to cavil about mere matters of form, nor do I imagine that a personal disrespect was intended to be offered to me by those, whose station and dignity alike forbid such a supposition. But when an omission of form seems designed as a mode of denying the rights and privileges of the House of Representatives, of which I am the organ, it becomes my duty to do nothing which may recognize the propriety of such an omission.

I have retained the copy of the resolutions transmitted to me, until I shall be further advised by your Excellency of any other disposition which it may be proposed to make of them.



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*Regulation of Foreign Commerce.*

[26TH CONG.]

In conclusion, I beg leave to express my regret that I should be unable to comply with any request made of me by the Council and General Assembly of New Jersey.

I have the honor to be, with great respect, your obedient servant,  
R. M. T. HUNTER.

Mr. RANDOLPH observed that he did not hear the objections made yesterday by the gentleman from Pennsylvania. If he had heard the gentleman, he would have replied to them. The fifty-fourth rule, Mr. R. said, was applicable to petitions and memorials only, and not to resolutions coming from a sovereign State. He did not think, therefore, that they should be laid over, by the operations of this rule.

The SPEAKER suggested to the gentleman from Virginia, (Mr. WISE,) that he had better withdraw his motion to suspend the rules, the object having been accomplished by laying the correspondence before the House.

Mr. WISE said his only object, on yesterday, in pressing the motion that the SPEAKER be permitted to give his reasons, was to enable that gentleman to place himself right before the country. His object was attained by the reading of the correspondence, which would be placed on the journal. That correspondence gave satisfactory reasons for the course the SPEAKER had pursued; and he deemed his motion now unnecessary, and withdrew it.

The SPEAKER then informed the gentleman from New Jersey, that the resolutions were before the House, on the motion to print them.

Both the communication and the motion to print it were laid upon the table.

## IN SENATE.

MONDAY, February 10.

*Regulation of Foreign Commerce.*

Mr. BENTON rose to move the Senate to re-print certain resolutions for the regulation of foreign commerce, on principles of reciprocity and mutual benefit, which he had brought into the Senate near ten years ago, but which had not then ripened into any legislative action. The resolutions were then brought forward, in view of the approaching extinction of the public debt, and the consequent ability of the Government to make a great reduction of duties on foreign imports; for which reduction he then believed, as he now believes, that both the Constitution of the United States, and the interest of the country, required equivalent advantages to be demanded from foreign countries, in return for the great advantages they would receive from such a large abolition of duties on their exports brought to our country. If the resolutions had then ripened into legislative measures, the country would not now have to regret the annual importation of fifty millions of free goods from countries, several of which oppress with enormous duties, and fetter with injurious restrictions, the products of the United States which go to their ports.

Having failed in his attempt to procure this regulation of foreign commerce at the epoch of the extinction of the public debt, he had since looked forward to the next event in the history of the country, which would enable him to renew the attempt. This would be found in the approaching expiration of what is called the compromise act, and which would expire on the 30th of June, 1842. That act conducted the duties to a point at which they could not remain—to a point which would produce a reaction—and would involve a general adjustment of the duties on imports. It was to prepare for this event, and to be in a condition to anticipate action by previous deliberation, founded on information, that he had moved at the last session for the call on the Secretary of State for a report on the burdens and restrictions on the commerce of the United States in foreign ports; which call the Secretary (Mr. Forsyth) had ably and elaborately answered, and of which answer the Senate had directed a large edition to be printed. This call for the report was his first step towards the revival of the plan contained in his commercial resolutions of 1831: the second step was, to reprint those resolutions, as containing his exposition of the meaning of the constitution, and his opinion of the duty of Congress under it, and the advantage which would redound to the country from the discharge of that duty. When the report of the Secretary should be printed, he should move practically upon the subject; and should endeavor to ripen his plan into a legislative act.

Mr. B. said it would not be expected of him at this time, and on this motion to reprint former resolutions, that he should go into any general exposition or support of the plan of commercial reciprocity which he proposed; but it would be proper in him to say, that what he proposed was nothing more nor less than the revival of the plan contained in Mr. Jefferson's report, and Mr. Madison's resolutions, on the regulation of foreign commerce, as far back as the year 1793, and which report and resolutions presented the true interpretation of the Constitution of the United States, and contemplated the acquisition of advantages to their country proportionate to the advantages which other nations received from us in the free or in the cheap admission of their products into our ports.

The constitution grants two distinct powers to Congress in relation to foreign commerce; the first power is, to raise revenue from imports, for the necessities of the General Government; the other, to regulate commerce with foreign nations. These are distinct powers, granted for different objects, and not convertible or transmutable into each other. One of them—the first one—has been exercised from the day it was granted, and has been greatly abused, and perverted to objects for which it was not granted; the other has never been exercised at all; and has remained so

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long dormant that its purpose seems to have been forgotten, though the clause is often invoked to cover all sorts of absurd and unconstitutional propositions. Mr. Jefferson, by his report, and Mr. Madison, by his resolutions, attempted to execute this power—to give it a practical application to foreign commerce, according to the meaning of the constitution; and their plan was to establish a discriminating duty of ten per cent. against the products and manufactures of the countries which refused to enter into treaties of *reciprocity* with us; that is, who refused to take some of our staples on favorable terms, in consideration of the favor we extended to theirs. The cheapness of our Government, and the largeness and value of our exports, it was seen, from the beginning, must put it into our power to demand, and to command, equivalents from other nations for the free or cheap admission of their products into our country; and this is what Mr. Madison's resolutions proposed to do. He was defeated, and barely defeated, by the Federalists and the British merchants, headed by Gen. Hamilton; and immediately after the rejection of his resolutions, the wars of the French Revolution came on, followed by the decrees of the Emperor Napoleon, and orders in council of the British; which, in a measure, broke up foreign commerce; and, at all events, put it out of our power to regulate even our own by law. These wars, and these ruinous attacks upon commerce, have long since ceased; and since ten years, he (Mr. B.) had meditated the revival of the great work commenced by Mr. Jefferson and Mr. Madison, in 1793, and defeated by the Federal votes and British influence of that day.

Without going further into the subject at present, Mr. B. said, that the consequence of defeating Mr. Madison's resolutions were—*first*, that an important and express power in the constitution had remained unexecuted for fifty years; *secondly*, that the regulating of foreign commerce (so far as it had been attempted) was done by the President and Senate alone, in virtue of the treaty-making power; and to the exclusion of the House of Representatives, which, as a part of Congress, had a right, and was bound by the constitution, to act with the other component parts of the Legislative power, in regulating commerce with foreign nations; *thirdly*, that fifty millions of foreign products were now received free of duty from nations which oppressed our exports with enormous, and in some instances, prohibitory duties; *fourthly*, for want of acting on this plain command of the constitution, and applying the clause to its proper object, it was made the source of latitudinarian and absurd constructions, and wild claims of power for a multitude of objects never thought of in the constitution; and, *fifthly*, it was made a part of the pretexts and justification for the late enormous tariff, that we might punish other nations by retaliating

upon their productions the high duties which they imposed upon ours.

Mr. B. said he hoped he should be more successful now than he was ten years ago, in his attempt to engage the attention of the Senate and of the country to the earnest consideration of this great subject. The time was approaching when they would be forced to readjust the whole tariff of duties; and it was the part of common prudence to foresee events, and to provide for them beforehand, instead of waiting until the crisis arrived, and when action, without deliberation, and without choice of alternatives, became the law of necessity. The compromise act, as it is called, was only an adjournment of the question of the tariff—an adjournment of the question from the time when the country was prepared for action on it, to a time when it will not be thinking of it. This act expires in 1842, and every prudent man must foresee the struggle which is then to come on, and for which one party is now preparing, by endeavoring to create a necessity for the renewed imposition of high duties. Every attempt to divert the land revenue from the Federal Treasury, is a step taken in preparing one party for the struggle of 1842. It is my wish to prepare for that struggle also; and to prepare for it by anticipating the event—by exercising a granted power, thus far lying dormant in the constitution—and exercising it according to its true intent and meaning, and to the manifest benefit of the whole Union. The regulation of foreign commerce upon the principle of reciprocity—treating the products of others as they treat ours—measuring back to every nation the same degree of favor, or disfavor, which it measures out to us; this is the intent of our constitution, the interest of our country, and the duty of our Government. In the language of Mr. Jefferson, "*free commerce and navigation are not to be given in exchange for vacations and restrictions*;" nor are we to play the unprofitable and barbarian game of injuring ourselves to injure others. A reciprocity of benefits, instead of a reciprocity of injuries, should be our policy; and this policy should be presented, and imposingly presented, to all the nations with which we trade. It may not be that every one may find itself in a situation to relieve our exports to the same degree that we relieve theirs; but every one can do something: every one can relax, in some degree, its severe restrictions, and lighten, to some extent, its heavy impositions, on some essential article of our exports. Each one that pleases can do this much; and those that do not please, we can force. Our position, and our circumstances, enable us to control and influence the commercial system of the civilized world. The large amount of our exports, their importance to other nations, our freedom from debt, the cheapness of our Government, the value of our custom, and our geographical position, enable us to command the commercial system of the

world. We can command it: and we shall be blind to events, and unfaithful to our constitution, to our interest, and to our duty, if we do not so far control and influence this system as to secure equivalent advantages for our exports, in return for the advantages which they receive from us in the admission of their products free of duty, or on the payment of a low and moderate duty. A discrimination of ten per centum to the prejudice of nations which refused to reciprocate advantages with us, would throw her commerce into the background, and make it secondary and inferior to the commerce of those in the same article which paid ten per centum less. Thus, and to exemplify the argument: a discriminating duty of ten per centum on either silks, wines, cottons, linens, woollens, or worsteds, &c., &c., against any nation which refused to enter into reciprocal arrangements for the more favorable admission of our tobacco, would immediately compel France and England to soften their rigorous systems in relation to that article, in order to avoid an enormous loss in losing a principal market for some one, or more, of their great staples. This would be its effect on the tobacco trade; and so it would be in relation to flour, rice, beef, pork, and every staple article of our exports.

Mr. B. said, that having given this glimpse of the plan which he proposed to revive, and having explained the reasons for the motion he intended to make, he would say no more at present; and would conclude with moving to reprint the resolutions to which he referred.

The resolutions were then read as follows:

IN SENATE OF THE UNITED STATES,  
February 26, 1831.

Mr. BENTON submitted the following resolutions, which were read, and ordered to be printed, and laid on the table:

*Resolved*, That the powers conferred on Congress by the States to lay and collect duties, and to regulate commerce, are distinct and inconvertible powers, aiming at different objects, and requiring different forms of legislative action, the levying power being confined to imports, and intended to raise revenue, the regulating power being directed to exports, and solely intended to procure favorable terms in foreign ports for the admission of the ships and products of the States.

2. That the power to lay and collect duties on imports was solicited by the founders of the present Federal Government, and granted by the States for the express purpose of raising revenue, and paying the public debt, and with the solemn and reiterated assurance that the duties levied for paying the debt should cease the moment the debt was paid; which assurance was given in answer to objections from the States, and to quiet the apprehension expressed by some of them, that the grant of power to Congress to raise revenue from the commerce of the States, without limitation of time or quantity, and without accountability to them for its expenditure, might render Congress independent of the States, and endanger their liberties and prosperity.

3. That the public debt will (probably) be paid

off in the year 1834, and the amount of about twelve millions of dollars of revenue will then be subject to abolition, and ought to be abolished, according to the agreement of the parties at the establishment of the present Federal Government, and in conformity to the present actual condition and interest of the States.

4. That an abolition of twelve millions of duties will be a relief to the people from about sixteen millions of taxes, (estimating the retail merchant's advance upon the duties at one-third;) and that the said abolition may be made without diminishing the incidental protection due to any essential branch or pursuit of domestic industry, and with manifest advantage to most of them.

5. That, for the purpose of enabling Congress to determine with entire safety to every interest, and with full satisfaction to the public mind, what branches and pursuits of domestic industry may be entitled to protection, and ought to be guarded from the injurious effects of foreign competition, a joint committee of the Senate and House of Representatives ought to be appointed, to take the examinations of practical men, (producers, consumers, and importers,) in all doubtful cases, and to report their evidence to the two Houses of Congress.

6. That the said committee ought to be appointed at the commencement of the next stated session.

7. That the power to regulate foreign commerce was granted to Congress by the States, for the express and sole purpose of enabling Congress to obtain and secure favorable markets abroad for the exports of the States, and favorable terms for the admission of their ships, and to effect these objects by establishing an equitable system of commercial reciprocity, discrimination, and retaliation, which should measure back to every foreign nation the same degree of favor or disfavor which itself measured out to the commerce and navigation of the United States.

8. That the power to regulate foreign commerce, although one of the first of the enumerated powers in the constitution, and the inducing cause to its adoption, has never yet been exercised by Congress.

9. That the approaching extinction of the public debt, and consequent obligation to abolish, and advantage in abolishing about twelve millions of annual revenue, will enable the United States to receive a large portion of her foreign commerce, say the one-half thereof, free of duty; and that the fair principles of a just reciprocity, the dictates of obvious policy, justice to the States, and the constitutional duty of the Federal Government, already too long deferred, will require this Government to demand equivalents from all nations which may wish to be admitted to a participation in the enjoyment of this great amount of free and unrestricted trade.

10. That the free importation of the following articles (among others) may be admitted into the United States without compromising the prosperity of any branch or pursuit of domestic industry, and with manifest advantage to most of them; namely, linens, silks, wines, coffee, cocoa, worsted stuff goods, several descriptions of woollens, several qualities of fine cottons, several kinds of spirits, &c., &c.

11. That the free importation of the said articles ought to be offered to all nations which shall grant equivalent advantages to the commerce and navigation of the United States, and will receive the products of their industry; namely, fish, furs, lumber, naval stores, beef, bacon, port, grain, flour, rice,

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cotton, tobacco, live stock, manufactures of cotton, leather, wool, and silk, butter and cheese, soap and candles, hats, glass, and gunpowder, lead, shot, and sugar, spirits made of grain and molasses, &c., &c., or some adequate proportion thereof, either free of duty, or upon payment of moderate and reasonable duties, to be agreed upon in treaties, and to continue for a term of years, and to no other nations whatever.

12. That there is nothing in existing treaty stipulations with foreign powers to prevent the regulation of our commerce upon the foregoing principles.

13. That all commercial nations will find it to their advantage to regulate their commerce with the United States, on these principles, as, in doing so, they will substitute a fair and liberal trade for a trade of vexations, oppressions, restrictions, and smuggling; will obtain provisions for subsistence, and materials for manufactures, on cheaper terms and more abundantly; will promote their own exports; will increase their revenue, by increasing consumption and diminishing smuggling; and, in refusing to do so, will draw great injury upon themselves in the loss which will ensue of several great branches of their trade with the United States.

14. That the agriculture, manufactures, commerce, and navigation of the United States, would be greatly benefited by regulating foreign trade on the foregoing principles, first, by getting rid of oppressive duties upon the staple productions of the United States in foreign markets; secondly, by lowering at home the price of many articles of comfort or necessity, imported from abroad.

15. That the safest and most satisfactory mode of regulating foreign commerce on these principles, would be by combining the action of the legislative and treaty-making powers, Congress fixing, by law or joint resolution, the articles on which duties may be abolished, and the Executive negotiating with foreign nations for the grant of equivalents.

16. That to be in readiness to carry this system of regulating foreign commerce into effect, at the extinction of the public debt, it will be necessary for Congress to designate the articles for abolition of duty at the next stated session.

#### *Assumption of State Debts.*

The report of the Select Committee, to which was referred the resolution of Mr. BENTON, and the resolution of Mr. LUMPKIN, on the subject of the assumption of the State debts by the General Government, being the special order of the day, was taken up.

Mr. GRUNDY said he did not rise to discuss this question, but merely to ask that, when the question on the resolutions came up, it might be taken on each separately, and by yeas and nays.

The first resolutions were then read, as follows:

1. *Resolved*, That the assumption, directly or indirectly, by the General Government, of the debts which have been, or may be, contracted by the States for local objects or State purposes, would be unjust, both to the States and to the people.

2. *Resolved*, That such assumption would be highly inexpedient, and dangerous to the Union of the States.

3. *Resolved*, That such assumption would be wholly unauthorized by, and in violation of, the Constitution of the United States, and utterly repugnant to all the objects and purposes for which the Federal Union was formed.

4. *Resolved*, That to set apart the public lands, or the revenues arising therefrom, for the before-mentioned purposes, would be equally unjust, inexpedient, and unconstitutional.

Mr. PRENTISS moved to strike out the words "directly or indirectly" from the first resolution.

After some remarks by Messrs. GRUNDY and PRENTISS, the latter withdrew his amendment at the suggestion of

Mr. CRITTENDEN, who moved to strike out all after the word resolved in the first resolution, and, as a substitute for the whole series, insert the following:

*Resolved*, That the debts of the several States, so far as they are known to the Senate, have been contracted in the exercise of the undoubted right and constitutional power of said States, respectively, and that there is no ground to warrant any doubt of the ability or disposition of those States to fulfil their contracts.

*Resolved*, That it would be just and proper to distribute the proceeds of the sales of the public lands among the several States, in fair and ratable proportions, and that the condition of such of the States as have contracted debts is such at the present moment of pressure and difficulty, as to render such distribution especially expedient and important.

Mr. CRITTENDEN submitted his reasons for proposing the substitute, when

Mr. ALLEN intimating an intention of addressing the Senate on the subject, on his motion it was informally passed over, and the substitute ordered to be printed.

The Senate then went into Executive business.

And afterwards adjourned.

THURSDAY, February 11.

#### *Bloodhounds in Florida.*

Mr. BUCHANAN presented a memorial from the representatives of the religious Society of Friends in Pennsylvania, New Jersey, and Delaware, and also fourteen memorials from citizens of the city and county of Philadelphia remonstrating against the employment of bloodhounds in the war against the Seminole Indians; and moved their reference to the Committee on Military Affairs.

Mr. BENTON said he wished to say a few words in relation to these memorials. He supposed they were like some other memorials, a large proportion of whose signers were women and children. He would say that the Government contemplated no such thing as that prayed against by these memorialists; and they were, therefore, misdirected when they sent them here. If some individuals of the Territory of

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Florida have imported such animals as those mentioned in the memorials, it has been done without the consent or knowledge of the Government. He was, therefore, opposed to a reference to a committee, requiring them to act on a subject which had no existence in point of fact.

Mr. BUCHANAN said he had presented these memorials, expecting that they would be referred to the Committee on Military Affairs, without a single remark, knowing that they could and would, in a report of a dozen lines, exonerate the Government from this heavy charge. He could himself have assured the memorialists that these bloodhounds had been imported without the knowledge of the War Department; but he preferred it to come in a more official shape—as the report of a committee. If his friend from Missouri would examine these memorials, he would ascertain that they were signed by many of the most respectable and best informed citizens of Philadelphia, without distinction of religious sect or political party. There were no women or children, as he had supposed, among the memorialists.

Mr. BENTON said he would admit the signers of these memorials were among the best of men, but he felt disposed to question their title to wisdom. They were not well informed; in fact they were worse off than if they possessed no information at all, for what they possessed was false. The Government, so far from doing what was insinuated in these memorials, had no knowledge whatever of it. So far from ordering these bloodhounds, they did not even know that it was done, until they heard of it, as the rest of us have done, through the newspapers. Having made these remarks, he was content that the Senate should take whatever course they thought the proper one. They might be sent to the Military Committee, or to the War Department, where they would probably be sent, if referred to that committee.

Mr. PRESTON said he had heard with surprise and satisfaction the declarations of the honorable Senators on this subject, whose authority is undoubted, possessed as they are of such authentic sources of information. He, in common with many others, was impressed with the belief that these animals were imported, if not by the direction, at least with the sanction, of the Government, and he was glad to hear this explicit disavowal. He would wish, however, that declarations equally explicit were made as to the intentions of the Department in relation to these animals, now that they were in the country; whether the Government intended to employ them or not.

Mr. BENTON read the memorial of the Society of Friends, in which they prayed that Congress would put an end to the war in Florida, by extending to the Seminoles the hand of friendship. Mr. B. said he knew that there were no better people in the world than the Quakers. He was raised among them, and knew them

well. But how wretchedly were they misinformed of the character of these Indians, when they supposed that by holding out the hand of friendship we could terminate this war! Mr. B. then referred to the treachery of the Indians during the last year, when an attempt was made to end the war amicably. They had invited Col. Harney to establish a trading house, which being done, they had surprised the post in the hour of darkness, and massacred every individual they could lay hands on.

Mr. LUMPKIN said the longer he lived, the more he was opposed to wars and fighting, and he would rejoice at the approach of the day when no resort would be necessary to such sanguinary measures. But, from the course which had been pursued in the Senate and elsewhere, he felt bound to say that his views were different from those of many others on the subject under discussion. As a member of Congress, or if he was connected with the Executive, he would not recommend a recourse to the measure which has been so much denounced; but if he was an inhabitant of that Territory, whose fields were devastated, and whose women and children were butchered by the ferocious and wily savage, he would think it no more a crime, if he had a trusty dog, to trace the lurking Indian to his lair, than he would to shoot him down when he found him. He confessed that he could see no objection to use these animals, which would not equally lie against the use of what are considered legitimate means of warfare. Holding these opinions, he felt bound in candor to express them. If the inhabitants of Florida have resorted to this means of terminating protracted and destructive warfare, it was not the first time that bloodhounds had been employed on this continent in the contests with Indians. He would pledge himself, if necessary, to produce statute books of some of our States in which a premium was offered for raising bloodhounds for the express purpose of hunting down Indians.

Mr. BUCHANAN said he had purposely refrained from entering into a discussion of this subject, but would only say that the people of the country had a right to be informed concerning it, and the committee to which he proposed to refer these memorials, was the best source to which we could apply for that information.

The memorials were then referred to the Committee on Military Affairs.

#### *Assumption of State Debts.*

The report of the Select Committee, to which was referred the resolution of Mr. BENTON, and the resolution of Mr. LUMPKIN, on the subject of the assumption of the State debts by the General Government, being the special order of the day, was taken up.

Mr. ALLEN, of Ohio, addressed the Senate as follows:

Shall the Federal Government depart from the sphere of its limited powers—shall it intrude into the local jurisdiction of the States—

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assume the duties of State legislation—tax the people for objects of State concern—shall it thus eventually abolish the State Governments, and itself settle down into one consolidated empire? This, Mr. President, no less than this, is the question presented, negatively, by the pending resolutions, and affirmatively by the substitute proposed. It is the same fundamental question which, at the beginning of the Government, divided this nation into two great parties, impressed upon them an enduring cast, fixed their principles, and has ever pointed the course of all their measures. Thus far has the great struggle involving the ultimate form of our institutions, already progressed; and although our history has been brief, we are now approaching that juncture in our affairs, when strife must speedily terminate in decision. For, sir, by the powerful impulse with which the whole system of civilization is now driven onward, changes more thorough are wrought in Governments within a single lifetime, than centuries could effect, before this era of furious activity. And hence it is that our constitution, though on the fourth of the ensuing month it will have subsisted but fifty-one years, has even now developed all its latent principles, whether of harmony or of discord, of consolidation or of disunion; whilst, in the mean time, the population has swelled to a magnitude, and stretched over a circuit sufficiently large, to comprehend all the diversity of interests likely hereafter to provoke dissensions. As to these things, therefore, the future has no secrets to disclose. The present generation have now before them all the data essential to the discussion of the question, shall the Union of these States continue as it is, or shall the States sink into a common empire, exposing the people to the hazard of despotism?

Sir, there is no truth, calculated to shed over a generous heart a deeper melancholy than the fact, that, of all objects yet undertaken by the faculties of man, the solid establishment of free institutions has been found the most difficult. The human mind, in its pride and in its glory, ranges through the whole frame of nature, discerns with certainty the laws which hold the members of the planetary world to their appropriate limits, protecting each against the encroachments of the other; and yet, in its utmost efforts, it has been unable to discover like rules of human conduct, to effect the same results between man and man. Most of revolutions have been but changes in the forms of oppression. For there is, in its principle, an elasticity adapting it to every new condition of things, in spite of all the precautions suggested by experience. If driven from the external forms of government by the positive enactments of the fundamental law, it soon reappears in the interior of the social community, and employs that law, the very safeguard provided against it, to protect itself in wrong and outrage upon the people. Nor, sir, do I speak thus without motive; for, in all I have this

day to urge, it shall be my object to illustrate this truth I have stated, not by abstractions barren of results, but by the actual progress of events, and the present state of affairs in our country.

And now, to begin at the primeval source of these events, where is it to be found? Not in our own history, but in that of our English ancestors; for we are still linked to that country by a chain of social dependencies, although that of our colonial bondage has long been broken.

In the first place, then, the British revolution of sixteen hundred and eighty-eight, which resulted in the expulsion of James the Second, and the coronation of the Prince of Orange, as William the Third, was finally consummated by a solemn compact between the new monarch and the people. He held the throne neither by inheritance nor as victor. By this adjustment of the constitution, the *jure divino* right of kings was, as a principle, expressly denied—the ultimate authority of the nation fully recognized—the regal prerogative of levying money, hitherto assumed, torn from the crown—that power acknowledged to abide alone in Parliament, and the protection of the citizen made the condition of his obedience. Such were the guarantees which Englishmen thought they had obtained, after so many years and scenes of civil war. And why should they not so think? Could they have supposed that a monarch, just called to a throne made vacant by the usurpations of his predecessors, would himself begin with the repetition of crimes so fatal to them? No. The eyes of the nation were therefore turned to Parliament, as the only source of law; and to law, as the sole authority to prescribe the amount and apportionment of the public burdens. They thought of taxes in no other form; they apprehended oppression from no other quarter. But the Prince of Orange was not an Englishman, by nativity or affections. His views and feelings were upon the continent. Without sympathies with the isle of his adoption—as a man, brave and sagacious in battle and in the cabinet—ever, and everywhere, inflexible of purpose—cold, abstracted, collected within himself—ambition domineered in his heart, to the exclusion of all other passions. He came to the throne by invitation, and seems to have thought that less a favor to him than his acceptance a favor to the nation. Regardless, therefore, as it soon appeared, of a compact that trammelled his will, it became the first of his objects to regain the lost prerogatives of the crown, and, first of all, that which brought all others with it—the power to levy exactions, at pleasure, upon the people. His schemes required money—more than he dared to demand, or Parliament to supply; for Parliament was bound to respect the forms of the constitution, and he the forms of Parliament. Yet even these difficulties in his way, so far from restraining the desires of the Prince, served but to disclose the fearful

secret, that the wants of ambition will ever suggest the means of their own gratification. There stood the compact, guarded by all the terrors of a recent revolution; and now, sir, it is to be seen by what process he obtained his object, and the consequences of his success, not to that country alone, but likewise to *this*.

But, first of all, it becomes important to observe, that of all the modes of levying contributions upon the people, borrowing is the most dangerous and oppressive. In this form, the community are taxed in anticipation—not by law, but by contract. The weight of interest is thus added to the burden of the principal, whilst every check upon Government, in its application, is withdrawn, inasmuch as the present benefit resulting from the immediate use of money, obscures the remote oppression its payment may occasion. Thus it is, that public debt is augmented without control. Thus it is, therefore, that each generation struggles, not to diminish, but to roll on, the increasing burden upon its successor; and thus it is too, that despotism, in silence and security, fastens its grasp upon the people, because each additional loan obtained upon the public credit, strengthens the hand which receives, and enfeebles that which contributes.

It was, then, to this form of the taxing power—the power to borrow at pleasure, to an indefinite amount, upon the pledged property and labor of his subjects, that the King resorted, to reinstate the crown in its former plenitude of prerogative. But to this end, it was necessary first to create a fund to be borrowed. How was this to be done? It could be effected in no other way, than by making it the interest of one class of his subjects to unite with the throne in the plunder of the others. For this purpose, the money capitalists were the only class to whom the sovereign could appeal. But inasmuch as that class had already suffered by advances made to Government, in the recent convulsions of the state, some equivalent beyond ordinary indemnity, could alone induce them to renew those advances. That equivalent was ready. It was nothing less than an absolute power conferred upon them, as a company, over the whole currency of the country; a power to substitute, for a metallic medium, valuable in itself, and therefore capable of being the standard of all other values, a paper circulation of the company's promissory notes, in themselves valueless, and for that very reason incapable of measuring the value of any thing else. This power was conferred, and this change in the currency effected, in sixteen hundred and ninety-four, the sixth year of that monarch's reign, by the charter of the *Bank of England*.

And thus, for the first time in the world's history, were the due bills of an incorporated company forced, by Government, as money, upon a nation. For the first time, were the property and labor of an entire people thus placed under the absolute control of a company,

and thus, for the first time, was a counter revolution accomplished in Government itself, by a revolution in the currency—a revolution which, as far as Great Britain and the United States are concerned, has struck more profoundly into society—spread its effects more widely through all the minutest relations of life, than any other event of modern times. Yes, effects, of which, as I shall attempt to show, the matter of our deliberations this day are but the dreadful manifestations. For here, sir, it is that we are to look for the beginning of that succession of events, which has already imposed a debt of four thousand millions of dollars upon Great Britain, and enabled her to throw two hundred millions of the amount upon the States of this Union.

But in order to comprehend all the consequences, both social and political, resulting from the creation of the first English bank, it becomes essential to know the circumstances attending the transactions, as well as the motives and reasons. To these the British historian himself shall speak; and here I ask the strictest attention, that all may judge, whether, in our own history, there has any thing of a like character occurred:

“The scheme was founded (says Mr. Smollett) on the notion of a transferable fund, and a circulation by bill on the credit of a large capital. Forty merchants subscribed to the amount of five hundred thousand pounds, as a fund of ready money, to circulate one million at eight per cent. to be lent to the Government; and even this fund of ready money bore the same interest. When it was properly digested in the Cabinet, and a majority in Parliament secured for its reception, the undertakers for the court introduced it into the House of Commons, and expatiated upon the national advantages that would accrue from such a measure. They said it would rescue the nation out of the hands of extortioners and usurers, lower interest, raise the value of land, revive and establish public credit, extend circulation, consequently improve commerce, facilitate the annual supplies, and connect the people the more closely with the Government. The project was violently opposed by a strong party, who affirmed that it would become a monopoly, and engross the whole money of the kingdom; that, as it must infallibly be subservient to Government views, it might be employed to the worst purposes of arbitrary power; that instead of assisting, it would weaken commerce, by tempting people to withdraw their money from trade, and employ it in stockjobbing; that it would produce a swarm of brokers and jobbers, to prey upon their fellow creatures; encourage fraud and gaming, and further corrupt the morals of the nation. Notwithstanding these objections, the bill made its way through the two Houses, establishing the funds for the security and advantage of the subscribers; empowering their Majesties to incorporate them by the name of the Governor and Company of the Bank of England, under a proviso, that at any time after the first day of August, in the year one thousand seven hundred and five, upon a year's notice, and the repayment of the twelve hundred thousand pounds, the said corporation should cease

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and determine. The bill likewise contained clauses of appropriation for the service of the public. The whole subscription was filled in ten days after its being opened; and the court of directors completed the payment before the expiration of the time prescribed by the act, although they did not call in more than seven hundred and twenty thousand pounds of the money subscribed."

Here, then, was the first entrance into the world of the banking system, as a source of paper currency. And mark the attendant incidents. In the first place, it commenced in the creation of a public debt, ever to be increased—never extinguished, but by the extinction of the Government itself. In the next place, it began with the corruption of the legislative power; for after being planned by ministers in the cabinet, it was withheld from Parliament, in order that the King might corrupt a majority to its support, before exposing it to the eyes of the public. And then, above all, mark the reasons assigned for the measure: "It would connect the people more closely with the Government." Yes; bind them more firmly within the spell of the throne—render them more tractable—less rebellious to oppression.

But what were the reasons urged against it by the patriots of the day? That it would become a monopoly—engross the whole money of the country—subserve the views of arbitrary power—strengthen the crown against the people—withdraw money from trade—produce swarms of brokers and jobbers to prey upon their fellow-men—engender fraud—encourage gambling, and corrupt the general morals. And who so lost to truth—so insensible to crime, as to deny that those fears have been realized? There can be none.

But what, sir, is this I have said and described? Does it relate to the first Bank of England, or to the first *Bank of the United States*. Where, in the world's history, are two events to be found, more identical in all their incidents—their reasons—their consequences?

The capital stock, consisting as it did, exclusively of Government bonds for near five millions of dollars, advanced by the company to the king; the bank began to loan its promissory notes, issued as a currency, upon the sole security of the bonds, themselves but the evidence of debt. In this manner it was that, whilst the institution, with one hand, drew interest, through the Government, from the people, on the debt itself, with the other it drew interest from them, on its own due bills, issued upon the pledge of the debt. The value of a stock thus yielding, as it did, a twofold profit, invited, of course, all capitalists to make additional investments. From time to time, therefore, was the capital of the bank increased, its charter extended, and its powers enlarged, by acts of Parliament, obtained through the influence of the king, that the institution might be able to make still further advances to him, as often as his schemes of ambition required

them. Thus, by the repetition of the same process through a succession of years, the whole moneyed wealth of the empire became eventually drawn within the common reservoir of the bank, and arrayed as a distinct interest, against every other species of property—against the landed and the laboring classes, on whom, by its discounts and circulation, the institution levied an enormous tribute. And thus, too, by this concentration of power in the bank, and its coalition with the king, he was enabled to employ the institution, instead of Parliament, for all the purposes of taxation. The process was plain. When money was to be raised, instead of resorting to the constitutional mode of assessment by law, the monarch had but to apply to the bank in the first instance, and with the means thence obtained, prevail, by corruption, on Parliament, to provide for the payment of the interest. By each successive operation thus augmenting the public debt; the burden of its interest; the capital, powers, and profits of the bank strengthening its connection with the king; increasing his influence over Parliament; diminishing that of the landed and laboring classes in the Government, and concentrating all power in the joint possession of the bank and the throne. I say, sir, the bank and the throne; for as to the two Houses of Parliament, they had, by this state of things, been rendered so notoriously corrupt, as to justify Mr. Walpole, at an after day, in laying it down as an axiom, applicable to English statesmen, "that every man has his price." And now, sir, for the results to that nation of this paper banking system. A public debt of four thousand million of dollars; taxes intolerable; an inequality of property and condition, ruinous in the extreme; a resulting aggregate of human misery, so wide and intense, as to leave one-fourth of the population, and that the most laborious, with scarcely a shelter by night, without the certainty of daily bread on the morrow—misery driving them on from insurrection to insurrection, for means of appeasing the cravings of nature. Four thousand millions of debt, still accumulating, notwithstanding the enormous tribute annually drawn from a hundred millions of her East Indian subjects; drawn by the torch and the sword; by robbery and murder, by the devastation of the oldest and richest country of the globe; drawn, sir, by a system of complicated and exquisite cruelty, which Attila, at the head of his Huns, or Tamerlane, with his Tartars, would have blushed to commit—cruelty reserved for Clive and Hastings—cruelty, at the bare recital of which Burke and Sheridan, all England shrieked with compunctious horror—still there stands the debt, undiminished; and that too, although British rapacity, insatiate by the plunder of India, has stretched to a neighboring isle its blighting hand—snatched the last bread from his lips—torn the last rag from the naked limbs of the famished Irishman—undiminished still stands the debt, although generation after gen-



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eration of her own infant children are worked in factories to the very extremity of life. Yes, notwithstanding these crimes of inhuman enormity—this infant toil amounting to torture—there stands the debt! and England, with her exterior grandeur, her splendid throne, her nobility, her navy, commerce, and colonies, presents the melancholy image of a hospital, whose surrounding colonnade of architectural beauty serves but to mock the sobs of affliction—the cries of despair within.

These, sir, are the direful consequences inflicted by the paper system upon that country, and threatened to this. But when, how, by whose agency, and for what reasons, was it affixed to our soil? Who gave it a lodgement in this Government? The Anglo-Federal party of the United States. From their hands it received life and nutriment; and by them, from the beginning to the present moment, has it been sustained and defended in all its ravages upon the people—in all its tendencies to the destruction of the Government. These were the men; but what were their motives for introducing it? To know them, their principles must be known; and here again it becomes essential—first, to know what were the principles of their founder. For of parties, it is no less true than of Governments, that, at the beginning, they take their principles from the men who lead; and, afterwards, the leading men take theirs from the parties. Who, then, was the founder of that party, and what his principles? Alexander Hamilton was the man. It was he—a man whose mind, of the second order, had been cast in an English mould; it was he who founded the party, who prescribed to his followers a class of principles and a line of policy, now and ever cherished by them with all the zeal of fanaticism. But what principles were they? What his scheme of measures to give them effect? These questions he shall answer for himself. Nor shall I do him the injustice to cite his language, incautiously used, on an occasion affording no reason for deliberation and care. No. But language, uttered under the most solemn responsibility that man can incur, the responsibility of organizing the Government of a nation. These, then, were the principles laid down by General Hamilton, and prescribed to his party, in the debate on the adoption of the Federal Constitution, on the nineteenth of June, seventeen hundred and eighty-seven. Thus he spoke:

“My situation is disagreeable, but it would be criminal not to come forward on a question of such magnitude. I have well considered the subject, and am convinced that no amendment of the Confederation can answer the purpose of a good Government so long as State sovereignties do, in any shape, exist.”

Again, on the same occasion, he declared:

“I believe the British Government forms the best model the world ever produced, and such has been its progress in the minds of the many, that

this truth gradually gains ground. This Government has for its object public strength and individual security. It is said with us to be unattainable. If it was once formed it would maintain itself. All communities divide themselves into the few and the many. The first are the rich and well born, the other the mass of the people. The voice of the people has been said to be the voice of God; and however generally this maxim has been quoted and believed, it is not true in fact. The people are turbulent and changing; they seldom judge or determine right. Give, therefore, to the first class a distinct, permanent share in the Government. They will check the unsteadiness of the second, and as they cannot receive any advantage by a change, they, therefore, will ever maintain a good Government. Can a Democratic assembly, who annually revolve in the mass of the people, be supposed steadily to pursue the public good? Nothing but a permanent body can check the imprudence of Democracy. Their turbulent and uncontrollable disposition requires checks. The Senate of New York, although chosen for four years, we have found to be inefficient. Will, on the Virginia plan, a continuance of seven years do it? It is admitted that you cannot have a good Executive upon a Democratic plan. See the excellency of the British Executive. He is placed above temptation—he can have no distinct interests from the public welfare. Nothing short of such an Executive can be efficient.”

And, in the same speech, proceeding to give his plan of Government, he said:

“Let one body of the Legislature be constituted during good behavior or life.

“Let one Executive be appointed who dares execute his powers.

“It may be asked is this a Republican system? It is strictly so, as long as they remain elective.

“And let me observe, that an Executive is less dangerous to the liberties of the people when in office during life, than for seven years.

“It may be said this constitutes an elective monarchy? Pray, what is a monarchy? May not the Governors of the several States be considered in that light? But by making the Executive subject to impeachment, the term monarchy cannot apply. These elective monarchs have produced tumults in Rome, and are equally dangerous to peace in Poland; but this cannot apply to the mode in which I would propose the election. Let electors be appointed in each of the States to elect the Executive. [Here Mr. H. produced his plan]—to consist of two branches; and I would give them the unlimited power of passing all laws without exception. The Assembly to be elected for three years, by the people in districts. The Senate to be elected by electors chosen for that purpose by the people, and to remain in office during life. The Executive to have the power of negating all laws; to make war or peace with the advice of the Senate; to make treaties with their advice, but to have the sole direction of all military operations, and to send ambassadors and appoint all military officers, and to pardon all offenders, treason excepted, unless by advice of the Senate. On his death or removal, the President of the Senate to officiate, with the same powers, until another is elected. Supreme judicial officers to be appointed by the Executive and the Senate. The Legislature to appoint courts in each

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State, so as to make the State Governments unnecessary to it.

"All State laws to be absolutely void, which contravene the general laws. An officer to be appointed in each State to have a negative on all State laws. All the militia and the appointment of officers to be under the National Government."

On the twenty-second of the same month, still intent upon his object, and, as if fearful that he had not yet been distinctly understood, he proceeded to say that,

"In all general questions which become the subjects of discussion there are always some truths mixed with falsehoods. I confess there is danger where men are capable of holding two offices. Take mankind in general, they are vicious—their passions may be operated upon. We have been taught to reprobate the danger of influence in the British Government, without duly reflecting how far it was necessary to support a good Government. We have taken up many ideas upon trust, and at last, pleased with our own opinions, established them as undoubted truths. Hume's opinion of the British constitution confirms the remark that there is always a body of firm patriots, who often shake a corrupt administration. Take mankind as they are, and what are they governed by? Their passions. There may be in every Government a few choice spirits, who may act from more worthy motives. One great error is, that we suppose mankind more honest than they are. Our prevailing passions are ambition and interest; and it will ever be the duty of a wise Government to avail itself of those passions, in order to make them subservient to the public good—for these ever induce us to action."

Yes: here, in language the most explicit, under responsibilities the most solemn, did the founder of the Anglo-Federal party pronounce the American people incapable of a Democratic Government of equal freedom. Here did he declare that they were not sufficiently honest—that they were vicious—governed by their passions, turbulent, changing, incompetent to judge or determine aright; that they, as all mankind, were naturally divided into two classes, the few and the many; the rich and the well born on the one side, the great mass, the poor, on the other; and the first of these classes should, therefore, control the Government, in order to check the turbulence of the second. For these reasons it was, as he boldly declared, that he preferred the English form of Government, with all its abuses, with its throne, its nobility, its union of church and State, its standing armies, banking system, its organized corruption, its enormous debt, its ruinous taxes, its opulence of the few, its pauperism of the many. It was for these reasons that he pronounced such a Government "the best model the world ever produced." For these reasons it was that he thought a like Government, if once established over our people, would possess power to maintain itself against their folly and turbulence. And therefore it was, entertaining these principles and opinions, that he proposed, in full convention, to establish, as far as practicable, the same system here, by abol-

ishing the State Governments, and creating a Senate and an Executive for life, armed with all the powers of the King and Lords of Great Britain.

Such were the principles and views openly avowed by the founder of the party. And who can doubt that it was this manifest danger to public liberty, from the very presence of such a party in the country, which prompted the controlling majority of patriots to provide those safeguards in the constitution against the indirect means to which the party might, in future, resort to accomplish their object? What were those safeguards? That the Federal Government, in all its departments, should originate with the people—be responsible to them—that its powers should be few, and those distinctly expressed, and cautiously guarded—that the general mass of power should remain in the States or the people—that certain rights of men, deemed more essential to liberty, should abide with them, as sacred and intangible, by either the State or the Federal Government—that no titles of nobility should be granted—that no State should issue bills of credit, coin money, or make any thing but gold and silver a legal tender. These were the safeguards; and, above all, were those provisions so intended which relate to the currency; for, sir, the patriots of the convention knew full well what had been the political and social effects of the paper banking system in England. They knew the desires of the Anglo-Federal party here; and, knowing these, could they for a moment doubt what effects would be wrought upon our Government by such a system, in the hands of such a party? But what precautions ever yet proved infallible against the prompting of insidious ambition? None. And here, sir, we have an example—a fatal example, of what I begun with stating—that there is, in the principle of oppression, an elasticity adapting it to every new condition of things, and that, if excluded from the forms of Government by the fundamental law, it nevertheless takes its stand in the interior of the social community, and perverts that very law to its own defence, against the resistance of the people. And now mark the illustration of the fact, in the hurried, silent, insidious process by which the British banking system was transplanted into this Government—transplanted, not only in violation of all the constitutional safeguards intended to exclude it, but under the auspices and guarantee of the constitution itself. Mark, too, the exact resemblance of every incident attending the origin of the Bank of England? And why? Because the author of its introduction here was but an imitator—had made the model of the British Government—"the best model the world had ever produced"—had made that, and the history of British abuses, the chief and favored objects of his study—because he had proposed that model in the convention—had been defeated there—still deemed it practicable—and saw that it could only be introduced by

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first introducing the paper system, upon which it rested in England.

What were the facts? This Government went into operation by the meeting of the first Congress, under the constitution, on the fourth of March, seventeen hundred and eighty-nine. On the thirty-first of July, of the same year, the act to regulate the collection of duties was passed, and its thirtieth section provided:

"That the duties and fees to be collected by virtue of this act, *shall be received in gold and silver coin only*, at the following rates, that is to say: the gold coins of France, England, Spain, and Portugal, and all other gold coins of equal fineness, at eighty-nine cents for every pennyweight. The Mexican dollar, at one hundred cents; the crown of France at one dollar and eleven cents; the crown of England at one dollar and eleven cents; and all other silver coins of equal fineness, at one dollar and eleven cents per ounce."

Here, then, the whole revenue was to be received in gold and silver coin *only*. Such was the positive law of the land, passed in strict conformity to the constitution. Thus therefore, was the Government fairly launched upon the deep of time, without the beating of a wave or a wind to bear it from the course of its intended destiny. As yet, all was well; and so continued. But how long? To this question I will, in a moment, read the fatal answer.

On the second of September, of the same year, the act to establish the Treasury Department was passed, and on the eleventh of the same month, General Hamilton was appointed to that Department. Now mark the immediate consequence. On the twenty-second of that very month, he, as Secretary of the Treasury, issued to the collectors of the revenue an order in these words:

TREASURY DEPARTMENT,  
September 22, 1789.

SIR: In consequence of arrangements lately taken with the Bank of North America and the Bank of New York, for the accommodation of the Government, I am to inform you that it is my desire that the notes of those banks, payable either on demand, or at no longer period than thirty days after their respective dates, should be received in payment of the duties, as equivalent to gold and silver, and that they will be received from you as such by the Treasurer of the United States.

This measure, besides the immediate accommodation to which it has reference, will facilitate remittances from the several States, without drawing away their specie; an advantage in every view important.

I shall cause you shortly to be furnished with such indications of the genuine notes as will serve to guard you against counterfeits, and shall direct the manner of remitting them. In the mean time, and until further orders, you will please to receive them, transmitting to me a weekly account of your receipts and payments.

The Treasurer of the United States will probably have occasion to draw upon you for part of the compensation of the members of Congress from your State.

These drafts you will also receive in payment of

the duties, or in exchange for any specie arising from them which shall have come to your hand.

I am, sir, your obedient servant,  
ALEXANDER HAMILTON,  
Secretary of the Treasury.

OTHO H. WILLIAMS, Esq.,  
Collector of the Customs for Baltimore, Md.

Thus, whilst the law of the land commanded, in the most explicit words, that the revenue should be "*received in gold and silver coin only*," the Secretary of the Treasury makes arrangements with banks, neither known nor recognized to exist by the Constitution or laws of this Government; agrees to receive the whole revenue in their promissory notes, even though not payable on demand, and orders the collectors so to receive them. This he did by this fatal order, promulgated on the *eleventh* day after his appointment to office, on the *fifty-third* day after the passage of the revenue law, in the very presence of the Congress which passed it, still in session; and in utter contempt, equally of the constitution, the law, and the law-making power. I say, sir, this *fatal* order; fatal, because it was the first open infraction of the constitution, as well as the law, by an officer of Government; fatal, because it went unpunished, unrebuked; because it brought the legislative power under the control of the Secretary of the Treasury; fatal, because it first established the connection of banks with the Government; revolutionized the currency of the country, by opening a breach in the constitution, for the first Bank of the United States; fatal, because it was the primeval sin, whose consequences, broad and deep, have accumulated upon us with each returning year, until the Congress of the United States have at last received, not an order from the Treasury Department, but a mandate from the bankers and brokers of England, not to take for revenue the notes of banks, but to guarantee the payment of debts we never contracted; debts due to those who command; and this we are ordered to do, on pain of public ruin, threatened to the States, if we dare to disobey. Yet, fatal as was this order, it was but the commencement of General Hamilton's system for the revolution of the Government. He was an imitator; and, as such, saw from the British example that, to displace one Government, and to substitute another, without noise or violence, some machinery more powerful than a Treasury order was indispensably necessary. Well, what machinery so proper as a National Bank? What foundation for a National Bank so solid as a National debt? What materials so handy for a National debt as the debts of the States? None. This the Secretary knew. His party in Congress, he also knew, might be prepared, in advance, for the deed. They had justified his Treasury order in violation of law; and this act of loyalty to him was an invitation to come forward with the balance of his schemes. Ambition needs no second call to usurpation. He took them at the word; and, like the min-

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ister of William the Third, presented his plans in full maturity to the pre-engaged favor of legislative servility. And how were they received! With distrust! How acted upon! With deliberation? No. But snatched from his hand, and, with the impatient trepidation of conscious guilt, hustled and hurried through both Houses of Congress. Mark the process.

On the 29th of September, Congress adjourned its first session. On the 4th of January, 1790, commenced its second; passed the act to *assume*, by the Federal Government, the Revolutionary debts of the States, on the fourth of the ensuing August; on the twelfth of that month, adjourned its second session; opened its third on the 6th of the following December—passed the act to *charter* the first *Bank of the United States*, on the 25th of February, 1791, and on the third of the ensuing March, adjourned its third and final session. So rapid did the Treasury order, the assumption of the debts, and the charter of the Bank succeed one another. For, though it required six years for the ministers of William the Third to create a national debt, to revolutionize the currency—to establish a bank in coalition with the Government, concentrating in the hands of the parties coalesced, all the elements of social and political power; yet, General Hamilton, with this example before him, could effect these objects in two. And why? Because the British Bank was already made to his hand, and he had but to locate a branch in this Government. How, and by what means? In the first place, it was necessary to create a national debt, and to throw that debt into the hands of bankers and stockjobbers in England. To this end, therefore, the Secretary of the Treasury, still faithful in his affection for the British form of Government, proceeded, through his party in Congress, to assume twenty-one millions of State debt, giving to the bonds an irredeemable quality, which he foresaw would, as it did, send them for investment to the money market of London. There they accordingly went; and the Government being indebted, and that to foreigners, an excuse was furnished for providing the facilities of payment. How could it be paid without a bank? and how could a bank be introduced, without making this very debt the basis and body of its capital stock? No. These were the only means; the Secretary had so declared; his party in Congress were ready to act upon his judgment alone; and the thing was done. Done, sir, done, within the first two years of the Government—done by the very first Congress—done by the very same men who, but forty-two days before the Secretary came into office, had solemnly enacted, that all the revenues should be received "*in gold and silver coin only*"—done by men who were elected with no such view, and who, in the haste of their obedience to the Secretary, allowed the people no opportunity, by re-election, to condemn or approve the deed.

But why this hurry to found a national debt

—to establish a bank upon capital held by Englishmen—to empower it to change the currency of the country—to receive its notes for all the revenue—to deposit the public money in its vaults—to confer upon the Secretary and his party the power, through the agency of English capital, over the whole property and labor of the country; and in the end the power to fix the forms of English Government upon *this people*? Why this hurry? Was it because they apprehended danger to their scheme from the alarm of the people, if they were allowed time to be alarmed? Was it because delay would concentrate the public affections upon the Government as it stood; or was it because age would give to the constitution, now green and tender, that firmness and inflexibility with which it could not be bent, without the noise of a break—changed, without the tumult of revolution? Was it for these reasons that this succession of events was hurried along to consummation, in the first two years of the Government, without one word with the people? Let those who stand upon this floor to day—the faithful followers of Gen. Hamilton—they who on this and all occasions put forth their utmost energies to prop and defend these his maxims, and this his system—let them answer these questions to the country.

The debt was assumed, funded, held, by Englishmen—a branch of the English bank established in this Government upon it: I say a branch of the English bank; for what else was the Bank of the United States? Who owned its stock? Who received its profits? Who, by their agents, directed its affairs? Were they Americans, or Englishmen? Were they here or in London? Let the Senator from Kentucky (Mr. CLAY) answer. No; he has answered already—answered upon his responsibility as a Senator—answered upon this floor in eighteen hundred and eleven, when he thus spoke, on the question of renewing the charter:

"The power of a nation is said to exist in the sword and the purse. Perhaps, at last, all power is resolvable into that of the purse; for with it you may command almost every thing else. The specie circulation of the United States is estimated by some calculators at ten millions of dollars; and if it be no more, one moiety is in the vaults of this bank. May not the time arrive when the concentration of such a vast portion of the circulating medium of the country in the hands of the corporation, will be dangerous to our liberties? By whom is this immense power wielded? By a body who, in derogation of the great principle of all our institutions—responsibility to the people—is amenable only to a few stockholders, and they chiefly foreigners. Suppose an attempt to subvert this Government, would not the traitor first aim, by force or corruption, to acquire the treasure of this company? Look at it in other aspects. Sevenths of its capital are in the hands of foreigners, and these foreigners chiefly English subjects. We are possibly upon the eve of a rupture with that nation. Should such an event occur, do you apprehend that the English Premier would experience any difficulty in obtaining the entire control of this insti-

tion? Republics, above all other nations, ought most studiously to guard against foreign influence. All history proves that the internal dissensions excited by foreign intrigue have produced the downfall of almost every free Government that has hitherto existed; and yet gentlemen contend that we are benefited by the possession of this foreign capital! If we could have its use without its attending abuse, I should be gratified also. But it is in vain to expect the one without the other. Wealth is power, and, under whatsoever form it exists, its proprietor, whether he lives on this or the other side of the Atlantic, will have a proportionate influence. It is argued that our possession of this English capital gives us certain influence over the British Government. If this reasoning be sound, we had better revoke the interdiction as to aliens holding land, and invite foreigners to engross the whole property, real and personal, of the country. We had better at once exchange the condition of independent proprietors for that of stewards. We should then be able to govern foreign nations, according to the arguments of gentlemen on the other side. But let us put aside this theory, and appeal to the decisions of experience. Go to the other side of the Atlantic, and see what has been achieved for us there by Englishmen, holding seven-tenths of the capital of this bank. Has it released from galling and ignominious bondage one solitary American seaman, bleeding under British oppression? Did it prevent the unmanly attack upon the Chesapeake? Did it arrest the promulgation, or has it abrogated the orders in council—those orders which have given birth to a new era in commerce? In spite of all its boasted effect, are not the two nations brought to the very brink of war? Are we quite sure that, on this side of the water, it has had no effect favorable to British interests? It has often been stated, and although I do not know that it is susceptible of strict proof, I believe it to be a fact, that this bank exercised its influence in support of Jay's treaty; and may it not have contributed to blunt the public sentiment, or paralyze the efforts of this nation against British aggression?

The Duke of Northumberland is said to be the most considerable stockholder in the Bank of the United States. A late Lord Chancellor of England, besides other noblemen, was a large stockholder. Suppose the Prince of Essling, the Duke of Cadore, and other French dignitaries, owned seven-eighths of the capital of this bank, should we witness the same exertions (I allude not to any made in the Senate) to recharter it? So far from it, would not the danger of French influence be resounded throughout the nation?

I shall give my most hearty assent to the motion for striking out the first section of the bill."

Seven-tenths of its capital stock owned by Englishmen, and they living at home—by men of whom many were, at the time, lords and officers of the British Government—by men connected in interest with the English Bank, and by principles, manners, and affections, with every thing English, with nothing American. Well, therefore, when he saw the Bank of the United States thus owned by Englishmen, thus established among us by a party here, openly declaring their want of confidence in the people, their attachment to the British forms of government—a bank in the hands of such a

party collecting the whole revenues, its notes the whole currency, its word the whole law to the property and labor of the country; well, when he saw these things, did the Senator from Kentucky exclaim:

"May not the time arrive when the concentration of such a vast portion of the circulating medium of the country in the hands of any corporation will be dangerous to our liberties? By whom is this immense power wielded? By a body, who, in derogation of the great principle of our institutions—responsibility to the people—is accessible only to a few stockholders, and they chiefly foreigners. Suppose an attempt to subvert this Government, would not the traitor first strive by force or corruption to acquire the treasure of this company?"

And again:

"Are we quite sure that, on this side of the water, it has had no effect favorable to British interests? It has often been stated, and although I do not know that it is susceptible of strict proof, I believe it to be a fact, that this bank exercised its influence in support of Jay's treaty; and may it not have contributed to blunt the public sentiment, or paralyze the efforts of this nation against British aggressions?"

These, then, were the statements, the fears, the sentiments, of the Senator from Kentucky. They were then true, so are they now; for the truth has not changed, though the Senator has.

Can it then for a moment be doubted, that the first Bank of the United States was, in fact, but a branch of the English system?—that General Hamilton and his party, who introduced it here, still entertained their old affections for the forms of the British Government? Can it be doubted, that they yet cherished the hope of ingrafting the substantial features of that Government upon our constitution? Who doubts that they brought in the banking system with that view? And who, after looking to the principles and progress of the system, can doubt that its tendencies, one and all, are infallibly to that result? No! impossible! The very question now pending before us, is but a summary of all the results—a concentration of all the effects of the system, thus far in its progress.

Yet, sir, I will not come too abruptly up to the present period, but return back upon the line of events, to the point where the system made its entrance into our Government.

The bank was founded upon a national debt, constituting almost the entire body of its capital stock; and why? The reason is obvious. It was devised upon political motives by the founder of a political party; and the party itself was to be organized permanently upon the basis of the institution, as the controlling centre of the paper system. It was, therefore, necessary that such an institution should rest upon a foundation both durable and political by its connection with the Government. The national debt, it was evident, would subsist for many years; and was doubtless intended by the party to become, like that of England, not only permanent, but impossible of payment. Here,

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then, was a solid basis upon which the party could stand whilst in power, and rally if expelled. Hence it was that, when overthrown in 1800, the Anglo-Federalists, although in a minority, humiliated with shame, fell back, and, instead of a flight, securely concentrated upon the banking system. Hence it is that we now find them there still, warring for the empire of the few over the rights of the many; and hence it is, also, that we now behold that political phenomenon—a party, every political principle, every instinct of which, originates in, emanates from, and returns back into, the *single idea of money*; an idea to which, with them, Government itself is secondary; one form being preferred to another, only as one, more than another, may enable the few, “the rich and the well born,” to subsist upon the unrequited toil of the laborious poor. Yes, “all communities divide themselves into the few and the many; the first are the rich and well born, the other the mass of the people.” So spoke General Hamilton, the founder of the party and the paper system. Thus presenting the idea of money, no matter how acquired, as the fundamental principle of his politics, as the end of government, and government as nothing but the appropriate instrument of plunder. Whilst, on the other hand, his great antagonist, Mr. Jefferson, the illustrious founder of the ever glorious Democracy, with a soul sublimely elevated by an innate sense of justice—by an all-embracing sympathy with his countrymen—with a mind far-reaching to the future, beyond the forecast of the ablest of his age, took, nobly took, *liberty* as the basis of Government; equal freedom to all as the means of sustaining it, and the happiness of the whole people as its rightful object.

Money, then, being the fundamental principle of the Anglo-Federalists, the paper system the adopted means of making the Government subservient to this end, and the country thus drawn within the central influence of that system in England, can it be surprising that the most intense sympathies should have always subsisted between *this* party and *that* country? No: nor can it astonish any man that British instinct should prompt that people to send their capital here, in order to enlarge the paper system—to fasten its hold upon the Government and the country—to sustain a party which rests upon it, and to strengthen those sympathies of interest and affection.

And, sir, I ask, have they not succeeded? Has not the paper system, under the patronage of this party, and the stimulus of British capital, periodically applied, already expanded itself from one bank into a thousand? Has it not pervaded all the recesses of society, changed the whole currency of the country, excluded the constitutional medium, and taken its place, in spite of the constitution? Has it not acquired control over all property, and all labor—made both tributary to its coffers—impaired the obligations between man and man—trans-

ferred the earnings of labor to hands that labor not? Has it not established among us corporate monopolies without number, and a privileged order of men, where equality of rights is enjoined by the organic law? But, above all, has it not secretly and slyly insinuated itself into all the forms of political power—diffused corruption through the whole frame and texture of our Government? Has it not, in thousands of those who claim the first rank in society, brought down every public—every individual virtue—every quality that ennobles and expands the human heart—patriotism, honor, truth, justice, courage, genius—every thing moral and intellectual in man; has it not brought down these, and all of these, in base subordination to avarice alone? Where, in these men, are now to be found that glow of patriotism, those noble sentiments devoting the whole man to his whole country; that heat and energy of soul which fired their fathers onward to revolution and liberty? Nowhere—nowhere. But bent beneath the stern despotism of a single passion, and that the lowest in the meanest breast, they prowl through life, servile to the power which enables them to plunder, and insolent to the victim people, who are plundered by them.

Nor yet is this all. Has it not paralyzed the manufacturing energies and resources of the country; countervailed the incidental protection of your tariff—rendered your factories incapable, even with the aid of law, not only of competing with British labor in the market of the world, but incapable, also, of competition on our own soil? Have not such been its effects upon the manufacturing interests, as demonstrated most clearly but a day or two since in the powerful reasoning of the ever-powerful Senator from South Carolina, (Mr. CALHOUN?) And whence, sir, but from this source, have originated our State debts of two hundred millions of dollars? Have not these, to the very last farthing, been incurred by advances made by Englishmen, not in money, but in the fabrics of British factories, to the almost total extinction of our own? But by what process has this been accomplished?

In the first place, the banks of the two countries being, as they are, but parts of the same system, the whole is made by the vital sympathy of the parts, to rest upon and receive its impulses from the central power. That power abides where the capital is aggregated, by which the system is stimulated into life and action. In London, then, the controlling power is found; and how is it connected? With the British Government—British manufactures—British commerce—British labor—British interest and policy—British ambition—with every thing British, and with nothing else. Every British instinct, therefore, necessarily prompts that people to enlarge the paper system among us, because whilst that country holds the controlling power of the system, her

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influence over this, both political and commercial, must be proportionate to its enlargement. For this reason it is, that British policy and British capital have ever acted in concert with the Federal party, in multiplying banks, inflating the currency, and riveting the system upon us. For this reason it is, also, that British goods are so readily sent to this country in the form of loans, to be converted into bank capital—into State and company debts. And thus are we not only rendered tributary to them to the amount of the interest, but likewise, in the form of a profit-paying purchaser of manufactures, even beyond our wants, and which we are prohibited from making for ourselves, by the very power that chooses to make them for us. By these means, too, British influence over our public affairs is every hour expanding itself—entering more deeply, more fatally, into all our counsels. No wonder, then, that more than fifty out of the two hundred millions of State debt, incurred to English capitalists by borrowing their calicoes and broadcloths, should have been invested in bank stock alone. For every additional bank contributes its issues and discounts to swell the paper currency—to increase the desire and furnish the means, of buying still more British fabrics—to force men, companies, and States, still deeper into debt—to close our factories—to augment our tribute, and to draw this Government and people still more within the control of England. Yes: every new wave which rises upon the onward tide of a currency already redundant, drives still more men from labor to speculation—throws individuals into companies—presses those companies upon the law-making power for aid to accomplish their objects—imparts the general delirium even to the States themselves, until in the end, as we now behold, men, companies, States and all, yielding to the irresistible force, are propelled forward to the extreme verge of bankruptcy, when, in the agony of endangered honor, they implore their creditors for still more loans, to pay the interest on debts already contracted.

So far, therefore, as the currency, with all its mighty consequences, can be viewed, Great Britain and the United States are, by this system, consolidated into one people; the former controlling the destinies of both, by having in possession the central power of the system. Whether this state of things shall be allowed to progress, until it produces, in future, a corresponding conformity in the Governments of the two countries; recasting the American, as General Hamilton desired it, in the mould of the English form, must depend upon the sturdy patriotism and fortitude of the great Democracy. There is safety to be found for our institutions, for public liberty, in no other quarter. For such has been, such is still, the general tendency to that result; a tendency given to public principles and public measures,

by the Federal party, armed, as they are, with all the vast and complicated powers of the banks, that nothing but the stern resolution of the patriot farmer and laborer of the soil and the shop can arrest that tendency.

And now, to the just judgment of the Senate I appeal. Is not every incident I have stated, throughout the long succession of events, from the beginning of the paper system in England down to the present time, strictly, indisputably true? Are not all the effects and consequences I have ascribed to these events, deducible, infallibly, from them? Is not the grand total of these effects presented in the very question now pending before the Senate? What but the influence of the British paper system, British capital, British policy, British opinions, British manners, British feelings; what but the concentrated influence of all these, acting with dreadful energy upon our country, ever brought this question before us? Nothing. How, otherwise, came it here? What but a British edict, commanding the Government to assume the debts of the States, has called forth these resolutions that we will not assume them? Yes, I say commanded; and are we not? Are not we, the representatives of a people whose ancestors, indignant at England's demand of tribute, rose in mass, and with the sword, instead of complying, cut one-half of her empire loose from the other; are not we, the descendants of such ancestors, commanded, and that by English bankers; commanded, with a menace of ruin to the States, in case of disobedience; commanded to mortgage the whole public domain to those bankers; that domain which the valor of our fathers once wrenched from their grasp?

And how has this edict been received by a part of the Senate? Have they spurned it with that high indignation it should have excited? Did they spurn it at all? Have they joined in resistance when offered by others? Or have they, on the other hand, not only declined to condemn the mandate, but even propose obedience to its utmost exactions, by the indirect pledge of this very domain to those bankers, through the agency of the debtor States?

When, some six weeks ago, the Senator from Missouri, (Mr. BENTON,) with that sagacity in public affairs, which has made him, among his countrymen, the man of men; when, sir, he saw the dangerous influence of England over our councils and our destinies, not only exerted indirectly through the paper system and its political party, but saw, likewise, this influence openly embodied and authoritatively put forth in the edict in question; when he saw the anxious efforts made by British interests, and the friends and agents of those interests all around us, to temper and prepare our people and Government for obedience to this mandate; when he saw the danger of delay, and therefore submitted his resolutions—resolutions declaring the constitutional

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incompetency of this Government to assume these debts; the injustice, the fatal consequences of such assumption; when he enforced these, his views, at large in a speech; when the resolutions were, by the Senate, referred to a Select Committee, (for such was deemed their importance;) when these things transpired, what answer was made? None; none, save the indistinct uneasiness of a Senator or two, obscurely hinting their doubts and misgivings. But, on the contrary, silence, deep and dismal as the dead of night, reigned through the ranks of the Opposition; and so for weeks they continued. But observe the change. The committee now submitted their report, sustaining the resolutions against the assumption; and, at the same moment, the Senator from Massachusetts, (Mr. WEBSTER,) fresh from the purifying presence of the bankers and brokers of Old England, makes his advent into the Senate. Now for the conflict. No sooner did the sound of the trumpet announce the presence of the herald, than Senators, hitherto in ambush, sprang to their feet, as if a lion had leaped into their midst. One and all now chimed in to swell the chorus of denunciation—of denunciation not of this presumptuous edict, but of the report of the committee advising disobedience to its mandates. It was the report they denounced—objected to its publication—denounced the resolutions themselves—denounced the whole proceeding—its principle and its object. And why this silence broken? Why this rage of denunciation? Under the cover of what pretext is this proceeding so violently assailed? The statement of the debts, and the refusal of this Government to pay them, might impair the credit of the States by depreciating their bonds, already in the hands of the bankers and brokers, by whom this edict is issued. This is the pretext for resisting a declaration by the Government that it will not obey this British mandate. And what, sir, I ask, if, instead of these Senators, those English bankers themselves were upon this floor, what would they, on this occasion, do and utter? They by whom these bonds are held—they from whom this mandate issued—they who seek to make this Government, which never contracted, nevertheless, assume those debts, and that in violation of its fundamental law—what would they do and utter? Would they not utter what these Senators have uttered, word for word? Would they not do all these Senators have done, deed for deed? Who doubts it? What else could they do or say? What other than these things would their interest require, or instinct suggest? Nothing: and if so—if these British bankers, thus seeking to control this Government for their own purposes alone—if they, under the same circumstances, would pursue the exact course which the American Senators are pursuing, is it not time for these Senators to pause?

But where, in truth, is the pretext for the

objection thus urged to this proceeding? Is it a fact that the credit of the States can be affected by the enumeration and publicity of their debts? Were not the debts created, in the first instance, by the public laws of the States? Have they not been annually reported to the legislative bodies, by the fiscal officers of the States; and by those bodies annually republished to the world? Have the States ever sought or desired to conceal them? No. It would be worse than ridiculous to suppose it. And can it be doubted that these English bankers themselves—they who hold these bonds, who traffic to the amount of many millions in them—they who have issued this mandate—can it be doubted that those men would have exhibited to the Senator from Massachusetts, when lately among them, an exact list and tabular statement of the debts, to the very last farthing—when authorized, how secured, at what interest, and when redeemable? For it is upon these data that the standard of appreciation is fixed, and the chances of profit calculated, in the purchase and sale. And, sir, if this be true, as true it unquestionably is, how then can the publication of facts already notorious, produce an effect which that notoriety did not?

But when did these Senators become the peculiar guardians of public credit? To preserve the faith of the General Government is an object not less essential to the honor of the people than to maintain that of the several States. He, therefore, is not less an enemy to the States than to the Federal Government, who seeks to impair the integrity of the latter, however clamorous he may be in sustaining that of the former.

How, then, did those Senators act, when, on a recent occasion, not only the credit, but even the very being, of this Government was involved? Who has forgotten it? What patriot ever will, ever can, cease to remember the insurrection of 1837? I say the insurrection, not of a few inconsiderate men, prompted by real or imaginary wrongs to lift their hands against public law, and social order? No; but the insurrection of a thousand banks, deliberately planned, and simultaneously executed, throughout the Republic; an insurrection against the whole body of the people as well as against Government and law; an insurrection of corporations, not oppressed, but enjoying privileges—enjoying the possession and use of the whole public revenues. The Government had resources, even beyond its immediate wants. Congress had made appropriations for the public service, abundant in every particular—all was in the custody of the banks as the confidential agents of the Government and the public. So stood affairs; when, without a moment's warning, the banks, the whole country over, slammed their doors in the face of the people—refused to pay their notes—refused to deliver up one dollar of the public money—calling this infamous act of



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treason and rebellion by the soft name of suspension. Thus, in violation of every law, was every man in the nation, and every branch of the Government, openly defied. Thus was every appropriation made by Congress seized by the banks; and the Government, in the absence of Congress, left without a dollar to execute the laws. Congress was instantly called together by the President. The two Houses assembled—they found the banks, in whose vaults the law had deposited the revenue, had not only refused to pay it over for the public service, but still refused to refund, out of the millions on deposit, even enough to cover the compensation of the members themselves. These things were fully stated by the President. He advised that, in future, those corporations should not be trusted with the public money; and that, in the mean time, Congress should provide means, either by a loan direct, or by the use of Treasury notes, to execute the laws, and keep the Government alive. Without these means, it was evident the Government must cease, in all its functions; the mails stand still; the post offices be closed; the courts discontinued; the navy be recalled from the ocean; commerce be left exposed; the army disbanded; Florida given over to conflagration and murder; Congress be adjourned; and the whole structure of the Federal Union be brought in ruins to the ground. This, every man saw, must inevitably follow, if those means were not provided, and that without delay. And yet, in an hour so perilous as this, what did those Senators do? Did they condemn the insurgent monopolies? Did they propose punishment adequate to treachery so infamous? Did they hasten to rescue the Government from a danger so imminent. No, sir; no. But, on the contrary, whilst the Government thus hung upon the verge of ruin, whilst every good citizen expected to see the arm of the law-making power quickly stretched forth to save it, here stood these Senators denouncing, not the banks as traitors, but the Government as bankrupt. Yes, denouncing the Government of their country, and that, too, in a manner to render it contemptible in the judgment of the world, and odious in the eyes of the people. Public credit! Where was then their solicitude for public credit? Nor were they satisfied with this denunciation. From day to day their utmost efforts were exerted to obstruct every measure for the relief of the Government, and to reward the treachery of the banks, by giving them anew the custody and use of the public revenues in future. A bill was introduced to extend to the importing merchants more time for the payment of their bonds for duties to the Government. All voted for it, save the Senator from Arkansas, (Mr. SEVIER,) and he, I now believe, was the only Senator who voted correctly. Another was introduced to afford these deposit banks more time to speculate upon the public money be-

fore they refunded it, and this was unopposed. Nothing which favored the banks, however guilty, encountered the hostility of these Senators. Nothing which went to the relief of the Government, however indispensable, escaped their resistance. They the guardians of public credit! What better than such a course, at such a time, was calculated to dishonor the Government—to wound its integrity, both at home and abroad? And did they not—they who are now so sensitive about public credit—did they not then, have they not ever since sought, by all the powers of denunciation, to depreciate the Treasury notes below even the paper of suspended banks; and for what but to debase the Government?

Truth, however, Mr. President, compels me to admit, that there is, in this proceeding, one feature which may go to discredit the indebted States; and that is the second branch of the substitute proposed by the Senator from Kentucky, (Mr. CRITTENDEN.) These are the words:

“Resolved, That it would be just and proper to distribute the proceeds of the sales of the public lands among the several States in fair and ratable proportions; and that the condition of such of the States as have contracted debts is such, at the present moment of pressure and difficulty, as to render such distribution especially expedient and important.”

Here then, whilst in the report and resolutions of the committee, no word is found to question the ability or readiness of the States to meet their engagements, even to the very hour and to the last dollar, this substitute solemnly resolves “that the *condition* of such of the States as have contracted debts is such, at the present moment of pressure and difficulty, *as to render*” the “*distribution*” of the proceeds of the public lands “*especially expedient and important*.” Is such their condition? Is such their “pressure and difficulty,” that it becomes “especially expedient and important” to pay their debts for them, if they are themselves unable to pay? And who is it that makes this declaration? Not we, but the Senator from Kentucky; he who, as a friend of State credit, is alarmed when others merely speak of the debts, though they be already as notorious to the world, as the existence of the States themselves.

Yet, sir, it is for a reason higher than this, that I have read this substitute. I have read it, because it proposes, in the most unequivocal language, the indirect assumption of the debts, by this Government—the very deed we are commanded to do by the British bankers, in their menacing edict. However loudly, therefore, these Senators may have hitherto denied this to be their object, here, at last, when brought to the test, it is in effect openly avowed—avowed, and the reason assigned—that the “*condition*” of the States, “at the present moment of pressure and difficulty,” makes this indirect assumption “*especially expedient and important*.” What more than

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this have these English bankers ordered us to do? What more could they desire, than that we should thus mortgage to them, through the agency of the indebted States, the whole domain of the Republic? What more, than that the States of this Union should become their factors and brokers, to collect, by the officers of the Federal Government, and to transmit to them, the annual proceeds of a vast domain, larger than five times England itself? No. The British Government, arrogant and ambitious as it is, would desire no stronger hand in the Treasury of this Government—no stronger gripe upon the throats of these States—no better means to procure dissensions among us, than this measure, were it adopted, would afford.

And now, sir, what is the proposition contained in this substitute, but the result in consequence of that succession of events I have sought all along to pursue? The British paper system, beginning, as I have shown, in a political coalition with the King against the people, founded, in the first place, their national debt, revolutionized the currency; expanded and perpetuated both the debt and itself; drew within its coil the whole moneyed wealth of the empire; imposed a destructive tribute upon all labor and all property; and thus continued, through each successive generation, to increase the inequality of condition and the aggregate misery among men, until, at the origin of our Government, it extended itself to our shores. Here the system assumed the same form, and took the same principle, as the basis of its new empire. It commenced here, as in England, in a coalition with a political party, and selected for its ally that party which affiliated, in feeling and principles, with the forms of the British Government. It founded itself upon a national debt; and, in order to complete its identity with the mother system in England, it transferred that debt to the hands of the same English brokers who controlled the system there. Being thus established upon British capital—under British influence, and in connection with a party who deemed the British Government "the best model the world had ever produced," the system began to effect the same social and political results here, that it had there already produced. It expelled the constitutional currency and took its place; made labor and property tributary to its coffers; expanded from one into a thousand banks; centralized within itself the whole moneyed wealth of the country; communicated English feelings and English manners, wherever it went; diffused its influence through all the forms of our Government; entered into our councils; plunged the States in debt two hundred millions of dollars to British bankers, who, conscious of their power through the agency of the system here, and its party connections, have commanded this Government to assume these debts; and now, sir, we have the result of the

whole—we have the direct proposition to distribute the proceeds of the public lands, for that very purpose, made by the political friends of this system, in their place in the Senate. Such, I say, is the result of the paper system; and if, instead of resisting, we adopt the policy of this substitute, we shall soon have fulfilled the utmost wishes of General Hamilton and his party—the destruction of the State Governments, and the establishment, among us, of an aristocracy upon the English model.

For is it possible for any thing to be more manifest than that a distribution of the money arising from the public lands is, in fact, a distribution of revenue generally? Who does not see that if, for instance, twenty-five millions of dollars be necessary to the administration of the Government; if, of that amount, five millions are brought to the Treasury from the public lands, and if this latter sum be withdrawn from the public service for distribution to the States, who does not see that you must impose an additional tax, to that extent, to supply the deficiency? Thus, therefore, in order that the Federal Government may, with one hand, distribute five millions to the States, it must begin by collecting, with the other, five millions from the people of these very States by increased taxation. Yes, more than five millions must be collected, because the expenses of collection, in the first instance, as well as those of distribution, in the second, are also to be paid. And what, sir, is the final consequence of this? It is that the Federal Government centralizes in its own hands the whole power of taxation for all objects, local and general. It taxes the people, not only generally for objects within its own competency, but enters the States, takes the place of State legislation, and taxes them anew for purposes solely of State concern. What then of existence, as sovereignties, would remain to the States? What would all their residuary powers be worth? What would they be but dependent corporations—dependent upon the imperial system, to whose centre all powers and resources had huddled together?

Adopt, therefore, the policy of distribution—obey this British edict—pledge the revenue to the payment of those debts—and you will have fulfilled the destiny of the paper system; you will have accomplished the views of General Hamilton and his party; you will have answered fatally for civil liberty; you will have answered *affirmatively* the question with which I began: "Shall the Federal Government depart from the sphere of its limited powers—shall it intrude into the local jurisdiction of the States—assume the duties of State legislation—tax the people for objects of State concern—shall it thus eventually abolish the State Governments, and itself settle down into one consolidated empire?"

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*Salt Tax and Fishing Bounties and Allowances.*

[26TH CONG.]

WEDNESDAY, February 12.

*Florida Territory.*

Mr. WALKER presented a memorial from inhabitants of the Territory of Florida, praying for the admission of that Territory into the Union as a sovereign State.

Mr. W. said it would be recollected that, some time since, he had presented to the Senate a memorial from citizens of East Florida, praying for a division of the Territory. He at that time moved to lay it on the table, in the anticipation of presenting, in a short time, a petition for the admission of the Territory into the Union, with the view that both papers might be referred to a Select Committee, who would then have the whole subject before them. In accordance with the understanding at that time, he would now move that the memorial formerly presented, and the one just submitted, should be referred to a Select Committee of five members.

Mr. DAVIS said he saw no reason why this should not take the usual course of similar memorials, which had always been referred to the Committee on the Judiciary.

Mr. WALKER said that the precedents were as often one way as the other, and therefore could have no weight.

Mr. DAVIS said it was a matter of no consequence to him to what committee this subject was referred; but, until he heard some reason for departing from that course, he must insist that the reference to a standing committee of this body was the proper course.

Mr. CLAY, of Alabama, said that it must be apparent to the Senate, that this question was not so exclusively within the jurisdiction of the Committee on the Judiciary as pretended by the Senator from Massachusetts, (Mr. DAVIS.) The question whether the Territory should be now admitted into the Union, which was one branch of the inquiry, or not, was of little consequence compared to the question of the division of the Territory, which was deeply connected with their future prosperity and happiness. This question of division was one of the subjects proposed to be referred, and he thought it was evident this was not an appropriate subject for reference to the Judiciary Committee.

Mr. SEVIER said he had but little to say on this subject of reference; but he would tell Senators, openly and aboveboard, when the question of admission came up, he would not vote for the admission of any free State, without admitting, at the same time, a slave State. When Iowa came in, East Florida must come in; and when Wisconsin came in, another slave State must come in, if they expected to get his vote for the admission. This was the course pursued in the case of Michigan and Arkansas, and this was the course that would be pursued in future. It was the only course which would preserve the balance of power, and protect the interest of the slave States on this floor, which was their last refuge. He had no concealment

on this subject, and disdained to be beating about the bush.

Mr. DAVIS said he liked to see the candor of the gentleman from Arkansas—(Mr. SEVIER. And I should like to see it met by a similar spirit.) He wanted this subject referred to a committee who would consider it impartially; and from the givings out, it was evident this would not be the case if referred to a Select Committee. He asked for the yeas and nays on the question of referring to the Committee on the Judiciary; which were ordered.

Mr. TAPPAN said he should coincide with the Senator from Massachusetts (Mr. DAVIS) in the propriety of referring this subject to a standing committee of the body, if we had a Committee on the Territories; but he could not see that the Committee on the Judiciary had any thing more to do with it than many other of the standing committees—certainly not as much as the Committee on the Public Lands. Nor did he see so much force in his argument that this subject would not be treated impartially by a Select Committee. There were two propositions to be referred, which were adverse to each other; now they could not be partial to both; so they were just as sure of the subject being considered impartially as if sent to a standing committee. He thought a reference to a Select Committee would be the proper course.

Mr. MERRICK coincided in the views expressed by the Senator from Arkansas, and in so doing, he should vote for the reference to a Select Committee.

The question was then taken on the reference to the Committee on the Judiciary, and decided in the negative, as follows:

YEAS.—Messrs. Clayton, Davis, Knight, Phelps, Prentiss, Robinson, Ruggles, Smith of Indiana, Tallmadge, Wall, Webster, White, and Williams—13.

NAYS.—Messrs. Allen, Benton, Brown, Clay of Alabama, Calhoun, Crittenden, Cuthbert, Fulton, Grundy, Henderson, Hubbard, Linn, Merrick, Moulton, Nicholas, Norvell, Sevier, Strange, Tappan, Walker, Wright, and Young—22.

The question was then taken on referring the memorials to a Select Committee, and decided in the affirmative.

The committee consists of Messrs. WALKER, NORVELL, DAVIS, BROWN, and SEVIER.

*Salt Tax and Fishing Bounties and Allowances.*

Mr. BENTON rose to communicate to the Senate several bundles of papers which he held in his hands, in relation to the salt duties, and the fishing bounties and allowances founded upon those duties; and to move their reference to the Finance Committee, which had the subject under consideration, to which they related.

Mr. B. said it would be recollected by the Senators who had been long members of this body, that he had commenced his labors on the salt tax, and its appurtenant burden, the fishing bounties and allowances, about ten or twelve years ago; and that he had made but very lit-

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the progress in his labor since that time, though often doing his best. Not to despair of a good cause, and not to give up for a few defeats, was one of his maxims—perhaps a part of his nature; for he never felt himself to be vanquished while he felt himself to be right. This was the case on this salt subject. Though defeated for ten years, he did not despair; on the contrary, he felt stronger in the faith than ever, and more fresh and vigorous for action now than he did when the contest began. His relaxation from the contest on this floor, had been employed in preparations for renewing the contest upon this floor; and these preparations had resulted in the accumulation of a mass of information, part of which had been received from the Treasury Department, and part of which had been collected from other sources. That which had come from the Treasury, had already been referred to the Finance Committee by the order of the Senate; that which he had collected from other sources, he now asked leave to communicate to the Senate, and to have it referred to the same committee.

Mr. B. then sent to the table four several packages of papers, labelled as follows:

1. Thirty queries on the salt trade, and salt manufacture in the West, addressed to his constituents by Mr. BENTON of Missouri, with their answers thereto, showing the monopoly, adulteration, deficient bushel, restricted allowance, stinted quantity, and extortionate price, of salt in Missouri, and the necessity of the free admission of foreign salt.

2. A communication from the Democratic State Convention in Missouri; from the Hon. Mr. Miller of Missouri; from the Hon. Mr. Chapman of Iowa; from Judge King of Missouri, showing the monopoly, adulteration, extortionate price, and other abuses in the salt trade; and the connection of several banks with said monopoly and abuses.

3. A general statement of all the salt manufactories in the United States, and their products, and cost of their salt at their works; with a particular account of the salt works in New England, in New York, at the Kenhawa, and on the Holston, in Virginia, and of the import of foreign salt at New Orleans.

4. Statistics of salt, showing its localities, diffusion, abundance, and universality; its various forms, both liquid and solid; its different qualities; its manufacture; its cheapness of first cost; its uses in the animal economy, in agriculture, in different branches of rural economy, and in the useful arts; its vast consumption; the tendency of monarchical Governments to tax it oppressively, both in ancient and in modern times; the repugnance of the people to the tax in all ages; its final abolition in many countries; compiled from English, French, and American Encyclopedias, and other authentic sources.

These several packages, Mr. B. said, in addition to the two reports from Mr. Woodbury, Secretary of the Treasury, in obedience to calls

from the Senate; one in relation to the importation of salt from foreign countries, showing the quantities imported from each country, and the original cost; the other in relation to the fishing bounties and allowances, and the amount they draw from the Treasury, and the frauds which have grown out of them: these four packages, and these two reports, contained the mass of information which would enable him to recommence his labor at this session; and with better hopes of success than heretofore. All that he had to ask now was, that these packages should be referred to the Finance Committee; to which he should submit the question of their importance, and their title to be printed in extra numbers, for distribution among our constituents. When the papers were printed, and the time arrived for action upon them, he (Mr. B.) would undertake to establish, upon the evidence which they contained, two propositions: *First*, that of the \$320,000 annually, to which the fishing bounties and allowances now amounted, pretty nearly \$300,000 of that sum was illegally and unduly drawn from the Treasury; *Secondly*, that the salt tax, and its abuses, was an annual injury to the amount of several millions of dollars on the agriculture and rural economy of the West. These two propositions he expected to establish; and, if he did so, he should expect, as a consequence, that his bill should pass—the bill which he had renewed at the commencement of this session—for the suppression of the salt tax, and the abolition of the fishing bounties and allowances founded upon that tax.

Mr. B. then moved the reference of the papers to the Finance Committee; and they were accordingly referred.

#### *Assumption of State Debts.*

The report of the Select Committee, to which was referred the resolution of Mr. BENTON and the resolution of Mr. LUMPKIN, on the subject of the assumption of the State debts by the General Government, being the special order of the day, was taken up.

Mr. PHELPS was entitled to the floor; but being indisposed, yielded it to

Mr. SMITH, of Indiana, who addressed the Senate at length in opposition to the resolutions of the Select Committee.

The subject was then informally passed over, and the Senate adjourned.

THURSDAY, February 13.

#### *Abolition of Slavery.*

Mr. CLAY presented the petition of Michael H. Barton, praying for the abolition of slavery. He said that he presented this paper in deference to the right of petition, which he admitted in its full force. He thought the crisis of this unfortunate agitation was passed; it was certainly passed when Congress convened in December last. Whether the political uses which have since been made of it may not revive it,

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and revive it in a more imposing form, he was not prepared to say.

Mr. C. took occasion to express the gratification which he had derived, during the last summer, from the perusal of some valuable works from Northern pens on the subject of Abolition, and he considered them the ablest defences of Southern institutions which he had seen. He designated "The Review of Dr. Channing Reviewed," by a distinguished citizen of Boston; "Abolition a Seditious;" and "Some Thoughts on Domestic Slavery;" which were sold at Mr. Franck Taylor's bookstore on the avenue, this side of Gadsby's. In the last-named work, which contained many profound philosophical truths, the proposition was presented with uncommon force, that two communities of distinct races cannot live together, without the one becoming more or less in subjection to the other. Mr. CLAY had called the writer's attention to the illustration given to his argument by Lord Durham, in his report on the condition of Canada, submitted to the British Government. He expressed the firmest conviction, that whoever would read that report would come to the same conclusion which was arrived at by the author of "Thoughts on Domestic Slavery." Lord Durham states, as his decided opinion, after much observation of the French and British residents in Canada, that they cannot live together harmoniously, and that it is utterly impossible to hope for peace and tranquillity in those provinces, except by making one portion of the inhabitants subordinate to the other.

Mr. CALHOUN said he rose to express the pleasure he felt at the evidence which the remarks of the Senator from Kentucky furnished of the progress of truth on the subject of Abolition. He had spoken, with strong approbation, of the principle laid down in a recent pamphlet, that two races, of different character and origin, could not co-exist in the same country, without the subordination of the one to the other. He was gratified to hear the Senator give assent to so important a principle, in application to the condition of the South. He had himself, several years since, stated the same, in more specific terms; that it was impossible for two races, so dissimilar in every respect as the European and African, that inhabit the Southern portion of this Union, to exist together in nearly equal numbers, in any other relation than that which existed there. He also added, that experience had shown that they could so exist in peace and happiness there, certainly to the great benefit of the inferior race; and that to destroy it, was to doom the latter to destruction. But he uttered these important truths then in vain, as far as the side to which the Senator belongs is concerned.

Mr. CLAY said it was very true that the Senator from South Carolina might be the original inventor of the idea respecting the two races, but, like some other inventors, he had not derived much profit from the discovery. How-

ever, he had not so much commended the idea as the manner in which it has been illustrated and enforced, by the author of whom he had spoken. As to the right of petition, he did not consider it a matter of such small importance, or why was it guarded with such sedulous care by the framers of our constitution? He was for respecting it; and he believed that if these Abolition petitions were received and reported on, and not so much harshness of language used in regard to them, there would have been much less excitement than had been on the subject. But his remarks were not in reference to the vote in the House, but to the politicians and political newspapers. With regard to the compliment paid to the Senator from Ohio, (Mr. TAPPAN,) it was well merited, and the merit was somewhat enhanced by the understanding that that gentleman had heretofore entertained opposite sentiments.

#### *Bloodhounds—Florida War.*

Mr. BENTON, from the Committee on Military Affairs, to which was referred the memorials on the subject of employing bloodhounds in the Florida war, presented the following communication from the Secretary of War, and the committee was discharged from the further consideration of the subject.

WAR DEPARTMENT,  
February 17, 1840.

SIR: I have the honor to acknowledge the receipt of your letter of the 14th instant, transmitting from the Committee on Military Affairs a number of memorials against the employment of bloodhounds in the present war with the Indians in Florida, for such answer thereto as the occasion may require from the Executive branch of the Government. As I have had occasion to answer similar inquiries made by a member of the House of Representatives, I beg leave to transmit to the committee a copy of that communication, which, in part, furnishes the information required.

There can be no doubt, from the respectable character of the memorialists, that they are animated by humane motives in remonstrating against the use of these dogs; but it is equally certain that they are deceived when they suppose that their employment will degrade the character of the country, or render its officers obnoxious to the charge of cruelty. It was doubtless the intention of the authorities of Florida, when they imported the bloodhounds, to use them as guides to discover the lurking-places of the Indians, not, as has been erroneously believed, to worry or destroy them; and this Department has given positive instructions to that effect, if they should be employed by any officers in the service of the Government, as will be seen by the accompanying copy of a letter to the Commanding General in Florida. The Government was not consulted on the subject of the importation of these dogs by the Governor and Council of Florida, and was ignorant of the transaction until after their arrival in the Territory; but this Department did not feel itself justified in forbidding their use. The inhabitants of Florida have been cruelly harassed, and all their efforts, and those of our troops, have hitherto proved unavailing to protect their families from the murderous assaults

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of the savages. If they believe that this cannot be effected but by the superior sagacity of these dogs, it would be inhuman to prevent them from making use of what they regard as the only means of saving their wives and children from the tomahawk and scalping knife.

I beg leave to transmit herewith a copy of a letter from A. L. Magennis, Esq., of St. Louis, which contains his impressions respecting the object for which these dogs were procured, and the manner in which they are to be used, derived during a short stay which he was obliged to make in Tallahassee about the time the dogs arrived in Florida.

The memorials are herewith returned.

Very respectfully,

Your obedient servant,

J. R. POINSETT.

HON. THOMAS H. BENTON,

Chairman Committee on Military Affairs.

WASHINGTON CITY, Feb. 8, 1840.

DEAR SIR: In compliance with your request that I would communicate in writing what I had previously mentioned in conversation, as having heard while passing through Florida, on my way here, respecting the bloodhounds recently brought there from Cuba, and the purpose for which they were procured, I beg leave to state that, on the 6th ult., during a sojourn of two or three days at Tallahassee, while paying a visit at the residence of the present Governor, a gentleman entered the parlor, who was introduced as Col. Fitzpatrick, and who informed Governor Reid that he had just arrived from Cuba, with a number of bloodhounds, to obtain which he had been despatched, as I understood him, under authority from ex-Governor Call, and the Legislature of Florida. Col. Fitzpatrick spoke of the difficulties which he had in getting those dogs, thirty-three in number; the high price paid for them, and the great trouble arising from boisterous weather and scarcity of provisions, owing to the voyage being of unusual length, in bringing them over; he expressed a desire that Governor Reid should give immediate instructions to have them taken from on board the vessel, then lying at Port Leon, or St. Marks, as they were very much reduced and feeble from want of proper food, and put in some fit place, under the charge of five Spaniards, whom he had hired in Cuba as their keepers, and who were the only persons capable of properly managing them. A good deal was said as to the manner in which they were to be used in operating against the Indians; and, I believe, as well as I can recollect, and my recollection is pretty distinct, Col. Fitzpatrick, who appeared most conversant with the modes of keeping and using them, observed that they were always muzzled, unless when being fed; that when employed, in order to discover a hiding or retreating enemy, a keeper was appointed to each dog, to hold him in leash, and endeavor to put him on the scent, which, once found, he rarely lost; the pursuers followed close up to the keeper, and were thus conducted to the object of their search.

The dogs were described by Col. Fitzpatrick as possessing fine wind, great strength, bottom, and courage, and as differing from the common hound in one particular, which made them of infinite service in chase of a lurking enemy: they rarely or never gave tongue to warn him of the approach of his pursuers. I was not led to believe, from any thing which I heard on the occasion alluded to, or, indeed, at any other time during my journey, through Flor-

ida, that those dogs were to be unmuzzled and let slip to assail the hostile marauding Indian warriors, and destroy their women and children. I am persuaded that the people of Florida, dreadfully as they have suffered from the ferocity of the Indians, would not countenance such a species of warfare.

Col. Fitzpatrick, who, I have since learned, is an officer of the Florida militia, struck me as being a gentleman of great intelligence and decided character.

I have the honor to be, &c.,

ARTHUR L. MAGENNIS.

To the Hon. Mr. POINSETT,

Secretary of War.

WAR DEPARTMENT,

December 30, 1839.

SIR: I have the honor to acknowledge the receipt of your letter of the 27th instant, inquiring into the truth of the assertion made by the public papers, that the Government had determined to use *bloodhounds* in the war against the Florida Indians, and beg to assure you that it will afford me great pleasure to give you all the information on this subject in possession of the Department.

From the time I first entered upon the duties of the War Department, I continued to receive letters from officers commanding in Florida, as well as from the most enlightened citizens of that Territory, urging the employment of *bloodhounds* as the most efficient means of terminating the atrocities daily perpetrated by the Indians on the settlers in that Territory. To these proposals no answer was given, until, in the month of August, 1838, while at the Virginia Springs, there was referred to me from the Department a letter addressed to the Adjutant General, by the officer commanding the forces in Florida, General Taylor, to the following effect:

HEADQUARTERS, ARMY OF THE SOUTH,

Fort Brooke, July 28, 1838.

SIR: I have the honor to enclose you a communication, this moment received, on the subject of procuring bloodhounds from the island of Cuba to aid the army in its operations against the hostiles in Florida.

I am decidedly in favor of the measure, and beg leave again to urge it as the only means of ridding the country of the Indians, who are now broken up into small parties, that take shelter in swamps and hammocks as the army approaches, making it impossible for us to follow or overtake them without the aid of such auxiliaries.

Should this measure meet the approbation of the Department, and the necessary authority be granted, I will open a correspondence on the subject with Mr. Everson, through Major Hunt, Assistant Quartermaster at Savannah, and will authorize him, if it can be done on reasonable terms, to employ a few dogs, with persons who understand their management.

I wish it distinctly understood that my object in employing dogs, is only to ascertain where the Indians can be found, not to worry them.

I have the honor to be, sir, your obedient serv't,

Z. TAYLOR,

Bt. Br. Gen. U. S. A. Commanding.

To Gen R. JONES, WASHINGTON, D. C.

On this letter I endorsed the following decision, which was communicated to General Taylor: "I

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have always been of opinion that dogs ought to be employed in this warfare, to protect the army from surprises and ambuscades, and to track the Indian to his lurking-place; but supposed, if the General believed them to be necessary, he would not hesitate to take measures to procure them. The cold-blooded and inhuman murders lately perpetrated upon helpless women and children by these ruthless savages, render it expedient that every possible means should be resorted to in order to protect the people of Florida, and to enable the United States forces to follow and capture, or destroy, the savage and unrelenting foe. General Taylor is therefore authorized to procure such number of dogs as he may judge necessary, it being expressly understood that they are to be employed to track and discover the Indians, not to worry or destroy them."

This is the only action or correspondence on the part of the Department that has ever taken place in relation to the matter. The General took no measures to carry into effect his own recommendation, and this Department has never since renewed the subject. I continue, however, to entertain the opinion expressed in the above decision. I do not believe that description of dog, called the bloodhound, necessary to prevent surprise or track the Indian murderer; but I still think that every cabin, every military post, and every detachment, should be attended by dogs. That precaution might have saved Dade's command from massacre, and by giving timely warning, have prevented many of the cruel murders which have been committed by the Indians in Middle Florida. The only successful pursuit of Indian murderers that I know of, was on a late occasion, when the pursuers were aided by the sagacity of their dogs. These savages had approached a cabin of peaceful and industrious settlers so stealthily, that the first notice of their presence was given by a volley from their rifles thrust between the logs of the house; and the work of death was finished by tomahawking the women, after tearing from them their infant children, and dashing their brains out against the door-posts. Are these ruthless savages to escape and repeat such scenes of blood because they can elude our fellow-citizens in Florida, and our regular soldiers, and baffle their unaided efforts to overtake or discover them? On a late occasion, three estimable citizens were killed in the immediate neighborhood of St. Augustine, and one officer of distinguished merit mortally wounded. It is in evidence that these murders were committed by two Indians, who, after shooting down the father and beating out the son's brains with the butts of their rifles, upon hearing the approach of the volunteers, retired a few yards into the woods, and secreted themselves until the troops returned to town with the dead bodies of those who had been thus inhumanly and wantonly butchered. It is to be regretted that this corps had not been accompanied with one or two hunters, who, with their dogs, might have tracked the blood-stained footsteps of these Indians; have restored to liberty the captive they were dragging away with them, and have prevented them from ever again repeating such atrocities. Nor could the severest casuist object to our fellow-citizens in Florida resorting to such measures in order to protect the lives of their women and children.

Very respectfully,  
Your most ob't serv't,  
J. R. POINSETT.

HON. HENRY A. WISE, House of Representatives.

# WAR DEPARTMENT,

January 26, 1840.

Sir: It is understood by the Department, although not officially informed of the fact, that the authorities of the Territory of Florida have imported a pack of bloodhounds from the Island of Cuba; and I think it proper to direct, in the event of those dogs being employed by any officer or officers under your command, that their use be confined, altogether, to tracking the Indians; and in order to ensure this, and to prevent the possibility of their injuring any persons whatsoever, that they be muzzled when in the field, and held with a leash while following the track of the enemy.

Very respectfully, your most ob't serv't,  
J. R. POINSETT.

Brig. Gen. Z. TAYLOR,  
Commanding Army of the South, Florida.

## Assumption of State Debts.

The resolutions connected with the report of the Select Committee on the assumption of the State debts were taken up, as follows:

1. *Resolved*, That the assumption, directly or indirectly, by the General Government, of the debts which have been, or may be, contracted by the States for local objects or State purposes, would be unjust, both to the States and to the people.
2. *Resolved*, That such assumption would be highly inexpedient, and dangerous to the Union of the States.
3. *Resolved*, That such assumption would be wholly unauthorized by, and in violation of, the Constitution of the United States, and utterly repugnant to all the objects and purposes for which the Federal Union was formed.
4. *Resolved*, That to set apart the public lands, or the revenues arising therefrom, for the before-mentioned purposes, would be equally unjust, inexpedient, and unconstitutional.

The question was on the substitute offered by Mr. CRITTENDEN, as follows:

*Resolved*, That the debts of the several States, so far as they are known to the Senate, have been contracted in the exercise of the undoubted right and constitutional power of said States, respectively; and that there is no ground to warrant any doubt of the ability or disposition of those States to fulfil their contracts.

*Resolved*, That it would be just and proper to distribute the proceeds of the sales of the public lands, among the several States, in fair and ratable proportions, and that the condition of such of the States as have contracted debts is such at the present moment of pressure and difficulty, as to render such distribution especially expedient and important.

Mr. BUCHANAN asked the CHAIR if it would be in order to amend the resolutions offered by the Select Committee, and being answered in the affirmative, said that, for the purpose of placing himself in a correct position, and to avoid voting against what he deemed the truth, he would move that the original resolutions should be amended, by adding thereto, as a distinct and separate resolution, the first resolution of the substitute. Whilst he should most freely vote that it was unconstitutional, inexpedient, and unjust, for Congress to assume the

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payment of the existing debts of the States, he was anxious, at the same time, to express his entire confidence both in the ability and will of these States to pay their debts honestly and in good faith. In the expression of this opinion, he would go as far as the Senator from Kentucky, and was, therefore, willing to adopt his resolution on this particular branch of the subject.

Mr. PHELPS, who was entitled to the floor, not being present, the further consideration of the subject was postponed until to-morrow.

TUESDAY, February 18.

*Assumption of State Debts.*

The resolutions of the Select Committee on the assumption of the State debts, and the substitute submitted by Mr. CRITTENDEN, and the amendment offered by Mr. BUCHANAN, were taken up.

Mr. NORVELL offered the following as a substitute for Mr. BUCHANAN's amendment:

*Resolved*, That while the Senate of the United States is fully impressed with the importance and correctness of the principles contained in the foregoing resolutions, it is not intended thereby to create any doubt of the constitutional right of the States to contract debts, nor of their resources, disposition, or ability to fulfil the engagements which they have contracted, for purposes of internal improvement, as well as for other objects within the range of their reserved powers.

Mr. PHELPS, who was entitled to the floor on this subject, not being present, Mr. HUBBARD said that, though he would have greatly preferred to have followed Mr. P., he did not wish the subject to be farther delayed; and would, therefore, with the leave of the Senate, proceed to submit the few remarks he intended to offer on this subject.

Mr. HUBBARD then proceeded at great length in favor of the resolutions reported by the Select Committee.

WEDNESDAY, February 19.

*Salt Duty and Salt Monopoly in the West.*

Mr. BENTON asked to add certain papers to those already ordered to be printed on the subject of the salt duty, and the monopoly of salt in the West. The papers which had been ordered to be printed were principally from the West—chiefly from the State of Missouri: those which he now presented, came from a very different quarter; they came from the East—and from the far East—from that Asia which groaned under the iron sceptre of the English East India Company. This company, which was a corporation, had exemplified in Asia every variety of abuse, tyranny, and oppression, which the passions of man could suggest; and among other abuses, had established a salt monopoly throughout the vast regions over which

it ruled. The parallel between the conduct of these monopolizers of salt in Asia and in America was complete in every particular; in selling by the pound, instead of the measured bushel; in extorting an enormous and unconscionable price; in appointing agents to distribute the salt to the people in districts; in adulterating the salt; and in suppressing its manufacture or production. In all these particulars, the conduct of the monopolizers of Asia and America was precisely the same; and there was but one point at which the English company beat the American; and that was in the reduction of the quantity, or suppression of the manufacture of salt. The American companies effected their object by renting salt wells and furnaces, and letting them lie idle, and by hiring owners of salt water not to dig wells; and also by limiting the manufacturers to make but a certain quantity. This is the way the American monopolizers effected their object; the English company in India, on account of their military force, had a more compendious, cheaper, and effectual way to accomplish the same object: it was, simply, to drive the native Hindoos down to the seashore, where the power of the sun covered the beach with pure strong salt, from the evaporation of sea water, and make them throw it all back into the sea; and then come to the Company's agents and purchase their adulterated stuff, (from one-third to one-half being the amount of adulteration,) at the rate of about fifty cents for fifteen pounds. With this single exception, in which the English monopolizers in Asia had the advantage over the Americans in the mode of lessening the quantity of salt, their conduct was precisely the same, and led to the same complaints and applications for redress. The Hindoos, in 1832, sent a deputation to London to complain to the Parliament of this salt monopoly, and its heartless abuses. The House of Commons raised a select committee to inquire into the conduct of the East India Company generally, and this abuse in particular; which committee took the testimony, both of natives and Englishmen, and reported the whole to Parliament; and here it is, said Mr. B., (holding up a large folio volume;) here it is; and I now have to ask the Senate to print, as a part of the salt papers already ordered to be printed, the testimony of two of these witnesses examined before the select committee of the British House of Commons; one of the witnesses being a native Hindoo, and the other an Englishman.

Mr. B.'s motion was agreed to.

THURSDAY, February 20.

*Assumption of State Debts.*

The report of the Select Committee on the assumption of State debts by the General Government was taken up, and Mr. SEVIER addressed the Senate at length on the subject.



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The question was then taken on motion of Mr. CLAY, of Kentucky, to postpone the whole subject indefinitely, and was decided in the negative, as follows :

**AYES.**—Messrs. Betts, Clay of Kentucky, Clayton, Crittenden, Davis, Dixon, Henderson, Merrick, Porter, Prentiss, Ruggles, Smith of Indiana, Spence, Tallmadge, and White—15.

**NOES.**—Messrs. Allen, Benton, Brown, Buchanan, Calhoun, Clay of Alabama, Cuthbert, Fulton, Grundy, Hubbard, King, Linn, Lumpkin, Mouton, Nicholas, Pierce, Roane, Robinson, Sevier, Strange, Sturgeon, Tappan, Walker, Wall, Williams, Wright, and Young—27.

Mr. GRUNDY said, that though he was very anxious to have the question taken on the report of the committee, he was not disposed to press the consideration of it more hastily than would comport with the convenience of the Senate. If, therefore, any Senator was desirous of addressing the Senate on the subject, he was willing that it should now be informally passed over.

On motion of Mr. CRITTENDEN, the question was postponed until Monday next, with the understanding that it would be then taken up, and discussed until disposed of.

A message was received from the House, stating that the amendment of the Senate to the pension bill had been concurred in.

TUESDAY, March 3.

*Orders of the Day.*

The bill to relinquish to the State of Alabama the two per cent. fund reserved by the act for her admission into the Union, to be applied to the making of a road or roads leading to said State, was taken up, and, after being debated by Messrs. WHITE, CLAY of Alabama, NORVELL, KING, SMITH of Indiana, HUBBARD, LUMPKIN, and GRUNDY, was, on motion of Mr. G., postponed until to-morrow.

*Assumption of State Debts.*

The resolutions of the Select Committee on the assumption by the Federal Government of the debts of the States was taken up, and Mr. FULTON addressed the Senate at length in favor of the principles of the report.

WEDNESDAY, March 4.

*Sureties of Samuel Swartwout.*

The bill to authorize the Secretary of the Treasury to make an arrangement or compromise with any of the sureties on bonds given to the United States by Samuel Swartwout, late collector of the customs for the port of New York, was taken up as in Committee of the Whole, and after being discussed by Messrs. WALL, WEBSTER, PRENTISS, WRIGHT, and BETTS, was ordered to be engrossed.

*Resolutions respecting Brig Enterprise.*

Mr. CALHOUN submitted the following :

*Resolved*, That a ship or vessel on the high seas, in time of peace, engaged in a lawful voyage, is, according to the laws of nations, under the exclusive jurisdiction of the State to which her flag belongs, as much so as if constituting a part of its own domain.

*Resolved*, That if such ship or vessel should be forced, by stress of weather or other unavoidable cause, into the port of a friendly power, she would, under the same laws, lose none of the rights appertaining to her on the high seas; but, on the contrary, she and her cargo and persons on board, with their property, and all the rights belonging to their personal relations, as established by the laws of the State to which they belong, would be under the protection which the laws of nations extend to the unfortunate under such circumstances.

*Resolved*, That the brig Enterprise, which was forced unavoidably by stress of weather into Port Hamilton, Bermuda Island, while on a lawful voyage on the high seas from one part of the Union to another, comes within the principles embraced in the foregoing resolutions; and that the seizure and detention of the negroes on board by the local authorities of the island was an act in violation of the laws of nations, and highly unjust to our citizens to whom they belong.

THURSDAY, March 5.

*Assumption of State Debts.*

The report of the Select Committee on the assumption of State debts by the General Government was taken up, and Mr. GRUNDY addressed the Senate, as follows :

Mr. PRESIDENT: The duty which lies before me is laborious, but, in my judgment, it is not difficult. So soon as I discovered the manner in which the report was treated by Senators on the other side when it was first presented, I resolved in my own mind that I would take some suitable occasion to answer all the arguments which should be urged against it. By pursuing this course, I am aware that much which I may say will be a dull, cold repetition of what has been better said by others; but the Senate will bear with me. I owe a duty to my country, to the committee whose honored organ I was, and to myself. My present purpose is to discharge all the obligations and duties which rest upon me *most faithfully*. This I will endeavor to do in a manner and in a temper becoming a Senator, who is not unmindful of what is due to that enlightened and elevated body of which he is a member. It is not, however, my intention to re-argue in a regular way the subjects introduced and discussed in the report. That document is now before the people of the United States, and whatever may be said for or against it here, will not materially affect the estimate which the public have already placed, or will hereafter place upon it. Whenever the people read a public document upon an interesting subject,

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they can and will form opinions for themselves, and those opinions they will carry out by their acts. Without intending it, our political opponents have secured for the report a very general perusal. Their opposition to its being printed, their effort to suppress it, and prevent its circulation, have excited public curiosity, and produced a desire to see it; and I doubt not that it will now be read by hundreds and thousands, whose attention might never have been turned to it, had it been treated in the ordinary way.

Mr. President, I have seen, as you know, much of public life. At times, circumstances have made me a more prominent actor in political scenes than I could have wished. I have been, and my sentiments have been, too often denounced for denunciation to carry any alarm or terror to me. The denunciation of my friends I should fear; but whenever I cease to receive the disapprobation and denunciations of my political enemies, I shall begin to doubt whether I have not lost my efficiency, and whether the best service I could render to my country, would not be my retirement to private life. Political opponents condemn and censure those who are most in their way, and interpose the most formidable obstacles to the attainment of their favorite objects. Therefore, in general, it is a safe rule to say that men and things most condemned by them, are the best deserving the approbation of that portion of the public who are opposed to their views and schemes. I did not come into this honorable body, nor was I sent here, for the purpose of conciliating the favorable opinion of the Opposition. On the contrary, those who bestowed on me the high honor of a seat in this body, intended and expected that I would firmly pursue the same course which I had hitherto taken; that I would support the same principles I had heretofore uniformly maintained. Nor shall they be disappointed. Let denunciations come as they may, I shall not deviate in my principles or my course. I recollect that, in the other end of the Capitol, more than a quarter of a century ago, when our country was bleeding at every pore; when our armies were suffering for supplies which we had no money to purchase; when our ranks could not be filled because men of influence used all their power to prevent loans to the Government, and the enlistment of soldiers, I, in public debate, advanced the sentiment, that American citizens who thus acted and used their influence to prevent loans or enlistments, were guilty of *moral treason*. Then, sir, you remember how this sentiment was denounced in Congress, and by the whole Federal press. Nay, I did not even escape animadversion from the sacred desk. I then believed that I was right; and I maintained my opinion with what little ability I possessed. And now, how is it? Does any one now doubt the correctness of what I then said? If any one does so, he will scarcely venture at this day to avow a

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contrary sentiment. So I verily believe it will be with this report. The great principles it discusses will stand the test of the strictest examination; and even now, gentlemen who condemned the first and greater portion of it, will not controvert the soundness of its principles. If they disapprove it, why do they not do this; why do they not candidly and manfully discuss its principles? Instead of so doing, they pronounce it to be unnecessary—to be uncalled for, and calculated to produce no good. They seem afraid to meet the questions involved upon their merits. Every sort of evasion is resorted to. They demur; they plead in abatement; they resort to all the devices which skilful pleaders employ to get rid of a trial upon the merits of their cause. Such a trial is what they dread, and dare not meet. Pursuing this course of opposition, they assert that no such proposal as the assumption by the General Government of the debts of the States has been made here or elsewhere. We, on this side of the House, believe that such a proposition has not only been made, but made in the most formidable and imposing shape. This I will now proceed to prove. For this purpose, I shall use the extracts from the public papers which were read by my honorable friend from Alabama, (Mr. OLAY,) a few days since, when he addressed the Senate upon this subject. The New York Herald and the Courier and Enquirer are known to be papers of high Whig authority; they are situated in the great commercial emporium of the country, in the city where Wall street is, and where the agents of the British capitalists and the principal brokers of this country reside, and where more of these State bonds have been bought and sold than in all the rest of the Union. If these papers have advocated the assumption of the State debts by the General Government, it may fairly be inferred that a very serious intention exists to carry this scheme into effect. The New York Herald, in November last, introduced this subject into its columns, and used the following language: "This plan is so far matured by the leaders of the Whig party, as to be officially promulgated in the Courier and Enquirer of yesterday morning. The following extracts convey, *in petto*, the skeleton of the scheme." Here is the declaration of a leading Whig paper, published in the city of New York, announcing the fact that the "PLAN IS SO FAR MATURED BY THE LEADERS OF THE WHIG PARTY AS TO BE OFFICIALLY PROMULGATED IN THE COURIER AND ENQUIRER." Has this announcement ever been denied in the city of New York by any other Whig paper? Never, that I have learned. It is declared not only to be a Whig measure, but to have been matured by the leaders of that party. Now for the "plan" which the Herald says was "matured by the leaders of the Whig party." This is given in the Courier and Enquirer:

Let the Government of the United States—which means the people's immediate Representatives in

both Houses of Congress—create three hundred millions of stock, bearing an interest of four per cent. per annum, and let this be apportioned among the States on the principle of Mr. Clay's land bill, that is, *pro rata*, according to the number of their Senators and Representatives in Congress; and let the proceeds of the sales of the public lands be set aside and sacredly pledged as a sinking fund for the redemption of this stock. Let the Secretary of the Treasury, or some other suitable person, be appointed to exchange so much of this stock as may be the portion of any State for the stock of such State now issued, and after a certain period—say six months—pay over the balance to the respective States. Most probably the holders of some State stocks would not be willing to make such exchanges, and, if so, the State would receive its entire portion; and from the interest annually received on the United States stock, and sales of it from time to time, as their necessities required, be in a situation to progress at once with all its public works, whether commenced or only in embryo. United States stock would then immediately fill the space at present occupied by about two hundred millions of State stock: the remaining one hundred millions would be deposited in the State treasuries, and would only be offered for sale as their public works or other necessities required, and which the capitalists of Europe and America would gladly purchase at a premium.

This is the scheme; this is the plan which the Herald says was matured by the "LEADERS of the WHIG PARTY!" and the editor puts down the State debts at about two hundred millions of dollars; and yet the committee has been rebuked, severely rebuked, for saying that they were estimated at about that sum. I wish the Senate to notice the nature of this proposition. It is not to divide the proceeds of the public lands among the States, but it is to create a national debt; to make United States stock to the amount of three hundred millions of dollars, which is to be exchanged for the State stocks, and the proceeds of the sales of the public lands are to be set aside, and sacredly pledged as a sinking fund for the redemption of this stock. This proposition would not only embrace the revenue arising from the whole public lands; but, in case of a deficiency, it would have to be made up from other sources. Listen, further, to the language of the Herald; it says:

In illustration of this great scheme, the Courier goes at length into its popularity, economy, and means of escape from direct taxation, which the several States must submit to if the present system continue. With every view taken on these points, we cordially concur. It is the only and efficient system for the financial troubles of the age. A new National bank is as frail as a fair one of the third tier. We have seen the *coup de grace* given to the rotten fair one in Philadelphia. Free banks are equally worthless and numerous. Safety fund can hardly cover their nakedness. There is no plan, no scheme, nothing short of a miracle from Heaven, can save the great credit system, except it be the plan now proposed.

Nor have these views been confined to the

city of New York. The Cincinnati Gazette, the ablest Whig paper in Ohio, has taken and sustained the same ground. Am I not safe, then, in affirming that the leading organs of the Whig party, or at least many of them, have made the proposition spoken of in the report of the committee, and strongly urged upon the public mind the propriety of its adoption? But I stop not here. The bankers of England, Baring, Brothers and Co., who have traded more in these State stocks, and, perhaps, own more of them than all other individuals put together, in their circular, issued last fall, distinctly make the proposition, and declare:

But if the old scheme of internal improvements in the Union is to be carried into effect on the vast scale, and with the rapidity lately projected, and by the means of foreign capital, a more comprehensive guarantee than that of individual States will be required, to raise so large an amount in a short time.

A national bank would undoubtedly collect capital together from all parts of Europe; but the forced sales of loans, made separately by all the individual States in reckless competition through a number of channels, render the terms more and more onerous for all, lower the reputation of American credit, and (as reliance is almost exclusively placed upon the London market) produce temporary mischief here, by absorbing the floating capital, diverting money from regular business, deranging banking operations, and producing an annual balance of trade against the country.

It would seem, therefore, as if most of the States must either pause in the execution of their works of improvement, or some general system of combination must be adopted.

From this extract it is evident that an assumption of the State debts, or a guarantee of their payment, was not only proposed, but anxiously desired, by these vast traders in American stocks. In addition to all this, a member of the other House from my own State, (Mr. GENTRY,) gave notice that he would introduce a bill to assume certain State debts, and appropriate the public lands for the purpose. That bill has not been introduced, and after what has passed in this body, it may not be; but it is evident, from the title of the bill, that an assumption was contemplated, though to what extent I do not know; and unless the bill be introduced, I probably never shall. The Senator from Kentucky, (Mr. CLAY,) who I regret has been detained from his seat longer than I had expected, has said that he had seen no evidence of a design to offer such a proposition as an assumption of the State debts. All the answer I can make to this, is, that it seems to me he has not looked into this subject with his usual diligence and accuracy, and the evidence must have escaped his notice; for, to my mind, it is ample and conclusive. He says that he is against an assumption. No one will doubt this after the declaration he has made; but how far short of this is the measure he proposes? He will not assume; but does he not contend for a distribution of the revenue arising from the public lands among the States,

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to be applied by them to any purpose whatsoever? Now this, I admit, is not an assumption, nor the creation of a national debt; but it is furnishing the means of payment, so far as they may go, to the States. It is not an assumption of the State debts, but an actual payment of them, to the extent of the proceeds of the public lands. The same honorable Senator has remarked, that I am wrong in attempting to give warning to the public from this place upon this subject. If, sir, I err in this, this body sins every day in the same way. Why do we order extra numbers of reports and other documents to be printed? Why do the mail coaches daily groan under the weight of speeches delivered in this honorable body? I have always understood that these things were done and intended for the purpose of diffusing information among the people and enlightening the public mind. Scarcely a day passes but we hear it declared on this floor, that no expectation is entertained by the speaker of influencing the votes of Senators; but the public may be affected by what he is about to say; and he proceeds to deliver his sentiments. I think this remark of the honorable Senator has no force whatever in it.

We are asked emphatically, what right have we to notice the proceedings of the Legislatures of the States? My answer is, that the right to speak of their proceedings exists at all times; it should be exercised rarely, only upon great and important occasions. In this instance, as little has been said in the report as possible, consistently with the duty which had been assigned to the committee. But I entertain views upon the subject differing radically from those which have been expressed by some gentlemen. I do not consider the State Legislatures in any degree superior to the Congress of the United States. We are co-agents for the same people in the respective States. The State Legislatures are supreme in all things not prohibited by their State constitutions, and which have not been delegated to this Government; and this Government is supreme in all matters confided to it by the Constitution of the United States; but it must be recollected, that both are acting for the same people, and are the guardians of their interests. Hence the propriety, that the Governments, State and National, and their members, should give warnings to the people whenever a great sacrifice of their interests shall be attempted by either. In conformity with this view, the Governors of States, in their messages to their Legislatures, and the Legislatures themselves, upon occasions which they judge proper, are in the constant habit of treating of, and expressing their opinions upon, subjects which are intrusted by the constitution to Federal legislation and action. I think this is all proper, nor do I even take exception to the proceedings of the Legislature of New Jersey, however much I may differ from them in opinion, in denouncing and condemning the proceedings of the other

House of Congress in organizing itself without admitting either of the party claimants to their seats; and in calling upon the Legislatures of other States to unite in this condemnation. In my opinion, the right to speak and remonstrate exists, although I should not concur in the propriety of exercising it but upon important and interesting occasions.

I wish gentlemen would assign some reason why this right is not reciprocal. I believe it to be so, and, therefore, whenever a case occurs, which, in my judgment, demands it, I shall not hesitate to speak out and give warning to my countrymen of impending danger, let the danger arise from what quarter it may.

The Senator from Indiana (Mr. SMITH) insists that all proceedings, or expressions of opinion, upon subjects not immediately connected with legislation, are wrong; that the Virginia and Kentucky resolutions, passed upon the subject of the alien and sedition laws, have produced much mischief, growing out of the different constructions placed upon them. That honorable Senator was too young to understand the matter of which he spoke. You and I, Mr. President, both know that these, and Mr. Madison's report upon the Virginia resolutions, were the great lever which elevated Mr. Jefferson to the Presidential chair, and expelled from power the Federal party, which at that time ruled and governed this country. This I have always considered a great and beneficial result, growing out of the resolutions which he condemns. If he thinks the effects produced were not advantageous to the country, then we may well differ, and shall continue to do so, because there is a radical difference of opinion between us.

The same Senator has made a practical commentary upon our right to speak of the State authorities in debate here, very different from the doctrines held by his party upon this occasion. In the course of his remarks the other day, he told us that the Governor of the State of Pennsylvania was now acting patriotically, but that there were a number of destructives in the Legislature of the State, who were determined to destroy him. Was not this speaking of high State dignitaries, of the legislative authority of a sovereign State, with a freedom not claimed, or attempted to be practised, by any friend of this report and its principles?

Having thus disposed, as I think, successfully, of these general objections to the course pursued by the committee, I shall proceed to show the correctness of the positions laid down and sustained in the report; and, with this view, I shall ask the attention of the Senate to the terms of the cession by Virginia of her public lands. Before doing so, however, I beg to advert to the language of the resolution of the old Congress, in pursuance of which this cession, and that of the other States, were made.

It was passed on the 10th of October, 1780, as follows:

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*Resolved*, That the unappropriated lands which may be ceded or relinquished to the United States by any particular State, pursuant to the recommendation of Congress, of the 6th day of December last, shall be disposed of for the common benefit of the United States, and be settled and formed into distinct Republican States, which shall become members of the Federal Union, and have the same rights of sovereignty, freedom, and independence, as the other States.

From this resolution, it is apparent that Congress asked for the cessions of the vacant and unappropriated lands, not for the purpose of benefiting the States separately, but collectively, and the cession made by Virginia on the 1st of March, 1784, clearly conveys the same idea. The language is "That all the lands within the territory so ceded to the United States, and not reserved or appropriated to any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American army, shall be considered as a common fund for the use and benefit of such of the United States as have become, or shall become, members of the Confederation, or federal alliance of said States, Virginia inclusive, according to the usual respective proportions in the general charge and expenditure, and shall be faithfully and *bona fide* disposed of for that purpose, and for no other use or purpose whatsoever."

It should here be remarked, that this cession, and the deed made by Mr. Jefferson, Mr. Monroe, and others, in pursuance of it, reserve nothing, and contain no expression conveying the idea that a reversion, remainder, or limitation of uses, other than those expressed in the cession, was in the contemplation of the parties. The absolute fee was granted. It was known to the States, and to Congress, that a Federal Government then existed, which had to be supported by taxes upon the people of the States; and, also, that the expense of the Revolutionary war had to be paid. No one at that day could have believed that the revenue arising from the ceded lands could support the Government and discharge the Revolutionary debt; and experience has proved it to be insufficient for either purpose. Therefore, it never entered into the minds of the grantors or grantees, that the revenue arising from the public lands was to be drawn from the General Treasury of the United States, and placed in the treasuries of the different States.

It is further objected to the report, that it states that the rule of contribution is changed under the present Federal Government, and yet the report alleges that the disposition now made of the proceeds of the public lands, is according to the letter and spirit of the cessions. Such, to my mind, is precisely the fact. If lands were sold under the Confederation, the proceeds were placed in the public Treasury, and drawn from it to defray the expenditures of the Confederacy—not one dollar went

into the treasury of any State. Such also is the case at present. I think it therefore clear, that both the letter and spirit of the cessions are complied with in the present mode of appropriating the revenue arising from the public lands.

The Senator from Kentucky (Mr. CLAY) takes a further exception to the report, because, in a single sentence, or point, there is a coincidence in thought, and some similarity of language between it and a report once made by himself. I see nothing in this to which exception should be taken. It only proves that, in my judgment, he has thought correctly upon a single point in relation to this whole subject. But he says, although we agree on one point, we immediately separate and part again. Yes, sir, this is true. We habitually differ on political subjects, and have done so for nearly forty years, except for a few sessions, when we were in the other House of Congress. That Senator, sir, has referred on a former occasion, to the first subject of difference between us, which was respecting the first bank that was chartered in the State of Kentucky. I was a member of the Legislature of that State at the time this corporation was established. A bill was presented with the imposing title "to incorporate an insurance company," not a word was said in it respecting a bank; there was, however, a provision in it, that the company might issue notes payable to A B, or bearer; the bill passed without opposition; and I have never heard it said by any member of that General Assembly, that he suspected the incorporation of a bank was intended. It was, as the honorable Senator has stated, a fraud upon the Legislature. When I returned to the Legislature, I attempted to repeal it. The honorable Senator had then become a member, I believe, for the first time. I introduced a bill to effect my object. I relied in argument upon the fact that a fraud had been committed, and that the Legislature possessed the power to repeal it. The Senator, on the other hand, relied upon the sacredness of the charter, and the vested rights acquired under it. The repealing bill passed the House, of which we were members: it also passed the Senate; but the Governor exercised his veto power. It again passed the House of Representatives by the constitutional majority, but failed in the Senate by two or three votes. The bank went on, and I heard little more of it, having ceased to be a citizen of the State, until the year 1820, when I was sent by the Legislature of Tennessee as a commissioner to the Legislature of Kentucky, to aid in settling the disputed boundary between the two States. I then learned that a citizen of one of the Eastern States, perhaps Massachusetts, had arrived in Kentucky, and, by some means, had acquired a control over the institution, and had run off, taking the bank with him, without leaving funds to discharge its outstanding debts. Thus began and ended

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the first bank in the Western States. It came into the world by fraud, and went out of it by stealth.

The same honorable Senator said, when I made the report now under discussion, I did not even stand the first fire. I have served in this body with that honorable Senator about ten years, and, according to my recollection, he has never before drawn upon the military science for any comparison or figure of speech. This may have been owing to his dislike to "military chieftains;" but now that he has enlisted under the banner of a "military chieftain," he has added to his powers of rhetoric all the tropes and figures that can be gathered from that science. It seems to me, however, that I stood the first fire pretty well, under the circumstances. In the first place, I had no suspicion of an ambuscade; I considered myself in the Senate of the United States, where nothing was practised but fair, open, manly warfare. It so happened in this case, that, upon the presentation of the report, the Senator from Kentucky (Mr. CRITTENDEN) commenced his fire upon me. I defended myself as well as I could. Then the Senator from South Carolina (Mr. PRESTON) opened his batteries upon me. Next in order came the Senator from New Jersey, (Mr. SOUTHARD.) Last, though not least, the distinguished Senator from Massachusetts (Mr. WEBSTER) came into the battle. The odds against me, in point of numbers, were certainly considerable; but, having truth and justice on my side, I did not feel that inferiority, which, under different circumstances, I might have experienced. At last my gallant friend from North Carolina (Mr. BROWN) came to my assistance, and, so heavy a fire did he open upon the enemy, that I then felt able to maintain the contest without yielding a single inch of ground. Late in the evening, when it was almost dark, the Senator from Alabama, (Mr. KING,) always judicious, retired us from the field, and the enemy took from us no spoils of victory. We carried with us the subject-matter of the war, and, on the following morning, we renewed the fight; and here we have been, day after day, ready at all times to do battle, and have even waited until the sick and wounded should recover, and the absent return and fill up the ranks of our adversaries. Sir, I delight to contend with Senators; there is something high and noble in it. If I am worsted one day, perhaps upon the next, victory may perch on my standard, and if not, then it may at some future period; and if it should never come at all, the country may sustain no detriment, nor should I experience mortification or chagrin. But, sir, there is another species of attack about which I entertain very different sentiments and feelings. There is another class of men who have assailed this report in no measured terms. I mean those letter writers who are sent to this place by distant editors. These men I consider the basest and meanest of mankind: they misrepresent

and falsify every thing that is done here; misrepresentation and falsehood are their vocation and livelihood, and I am told that some of them are so degraded as to write letters for both sides—that is, the same writer, in describing the same transaction, will say in a letter to a Federal paper, that "Mr. A, to-day, made a most splendid effort in the Senate of the United States. His eloquence was so powerful, that the whole of the Democratic Senators looked aghast, and were unable to open their mouths in opposition to his eloquent effusions," &c. So soon as he has sealed up this letter and directed it, he writes a letter to a Democratic paper, in which he announces, that "this was a proud day for the Democracy of the country. Mr. B, to-day, did himself immortal honor; he literally demolished the whole Federal phalanx of the Senate," &c., &c. As to this class of individuals, Mr. President, I have but a word to say. With them I will hold no controversy, and to them I say, *Procul, O! procul este profani!* Yes, sir, the farther off the better, for we can hold no communion together.

I come now to the discussion of a subject upon which, of all others, the Republican party has been most misunderstood and most misrepresented. We are charged with being in favor of an exclusive metallic currency. This is not so, so far as I understand the sentiments of the party. The President of the United States, in his letter to the Honorable Sherrod Williams, distinctly negatives this idea, so far as relates to his own opinions. In his late Message to Congress nothing of the kind is intimated. So far from it, he declares that, in a country so commercial as this, banks will always exist. Reform, and not destruction, is the policy in regard to banks, which he recommends. I know, full well, what course has been pursued upon this subject throughout the country. It is to charge us with holding sentiments which we do not entertain, and gravely urging on the people the danger of such opinions. I will now state what my own opinions are, and what I believe to be the sentiments of the party of which I am a member. I am not in favor of an exclusive metallic currency; I do not believe that a sufficient amount of gold and silver can be procured and retained in the country to supply an adequate circulating medium for the commerce, the wants, and enterprise of the community; but I am anxious to see the circulation of small notes suppressed by those who possess the power to do so. We possess no such power; that belongs alone to the States. If small notes were banished from circulation, gold and silver would fill up the vacuum thus produced, and in this way specie would be introduced and used in ordinary daily transactions; while bank notes or other paper would be used in larger dealings. It is difficult to say how far this reformation should go, or how far it should be extended. I can only lay down the principle upon which I am willing to act, and leave to others, more skilled in the mone-

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tary and financial affairs, to furnish the details. If a sufficient amount of gold and silver can be procured to furnish a circulation for all sums under ten dollars, I am willing that all bank notes under that denomination should be banished from common use; I am willing even to go farther. If the amount of gold and silver be sufficient to furnish an adequate circulation under twenty dollars, I am willing to go to that amount. Were this done, the benefits arising from it would at once be apparent; all the laboring classes of the community would receive gold and silver for their labor; nor would they be liable to the frauds and impositions incident to bank paper. If gold and silver were in circulation, and a pressure made upon the banks, this circulation would be called to their relief, to a certain extent. The utility of a mixed currency, such as that of which I speak, is proved in England by the fact that, when five pound notes are the lowest that are issued, there is no want of specie for the common business transactions of the community. Further, I wish to see banks regulated through the agency of the State Legislatures, so as to compel them to be honest. In other words, I would place them under the empire of the laws, and whenever they ceased to answer the purposes for which they were created, they should cease to exist.

What I have said relates to the general business of the country, not to the fiscal operations of the Government—what we desire is to see safe banking; that is, that the banks shall be so conducted and managed that the holder of a bank note shall be sure of his money when he wants or demands it. Neither is the Republican party against the credit system. We only wish a sound credit system. We do not wish to see the banks issuing fifteen or twenty dollars in paper for one which they may have in their vaults in specie; nor do we wish to see men subscribe for bank stock, and pay it in, and then take it all out on their stock notes, as has been frequently done; nor should banks, in our view, be engaged in cotton or mercantile speculations of any kind; all such adventures endanger their note holders, and render their creditors insecure. If they would confine themselves to their legitimate business, that is, loaning money or their notes, and purchasing and selling bills of exchange, their profits would be ample, although their discounts should be confined within proper and safe limits. Men skilled in banking say that, generally, a bank may safely loan two or three dollars for one of specie in its vaults. Is not this profit enough? For every hundred dollars specie in bank, twelve or eighteen per cent. may be received by the circulation of its bills; that is, if I loan a hundred dollars to my neighbor, six per cent. is all that I can receive according to the laws of most of the States, but if, instead of this, I vest it in bank stock, I will receive, so far as specie gives circulation, twelve, fifteen, or eighteen per cent. When such privileges are

granted, surely honesty and punctuality should be enforced.

The measure now proposed is to give the revenue arising from the public lands to be used for improvements among the States; and unless some other means be resorted to, you must raise the tariff to make up the deficiency in the revenue. Now, I ask, is there a man in this country, who is not for other reasons in favor of a high tariff, that will assent to this? The effect will be, as has been clearly proven by the Senator from New Hampshire, (Mr. HUBBARD,) that the people of the United States, in the States, will receive from this Government from three to three and a half millions of dollars, and then pay back the same amount, with the increase of the cost and hazard of collection; that is to say: for every dollar thus distributed, a dollar and twelve and a half, or twenty-five cents, will have to be returned. It is said, however, that we can make up the deficiency in various ways. The first which has been proposed is a duty on imported silks; this duty would be right, and I regret that the other House, which can alone originate a bill upon this subject, has not sent one to that effect to this body; for I am anxious to see this duty imposed; but my opinion is, that all that accrues from this additional source of revenue will be needed on account of the rapid reduction of the revenue from customs under the compromise act.

It is urged, in the next place, that a portion of the army, a part of the mounted men, which now consists of two regiments, might be discharged. This is not a time to reduce the military force of the country. The war in Florida is still going on, and if any portion of the troops should be withdrawn, the inhabitants of that Territory, the men, women, and children, will be more exposed to the rifle, the tomahawk, and the scalping-knife, than they now are. Besides, we have a very serious controversy with Great Britain respecting our North-eastern boundary; and the negotiations, so far as they have been made public, do not promise a very speedy and amicable adjustment of that difficulty. Further, we have on our Western frontier, adjoining the States of Missouri and Arkansas, many powerful tribes of Indians, and we should be more savage than the savages themselves, were we to fail in furnishing an adequate military force to repel and instantly put down any hostile movement which they might make upon that exposed frontier. This Government, in carrying out what I have always considered a wise policy, has concentrated upon the borders of these two States the Indian tribes that were scattered throughout the country. We have created this exposure to danger in that quarter, and are therefore bound, by every obligation, constitutional and moral, to protect the inhabitants against the danger produced by our own acts. So strongly do I feel the duty which rests upon the Government on this subject, that I am not only unwill-

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ing to disband the mounted men which were raised for their protection, but, whenever a reasonable ground for the apprehension of danger shall be shown, I am prepared to vote for any amount of force which may be deemed necessary to repel or remove all apprehension of danger. It is the duty of this Government to protect every portion of the country, but *this* frontier in a more especial manner.

It is further said that our diplomatic corps at foreign courts should be reduced. Our foreign relations have been so ably and so successfully managed, during the last ten years, that I should be unwilling to see any change, unless some agent were designated and shown to be unnecessary.

An argument is drawn in favor of the distribution of the revenue arising from the sales of the public lands, from the fact that a bill is upon the table in the Senate, giving to the new States the disposition of the lands within their limits, and surrendering to them one-half of the proceeds for their expense in making the sales, and for transacting such an agency. It is true that the Senator from South Carolina (Mr. CALHOUN) has introduced such a bill, and it is also true that it is free from the constitutional objection which attaches to the project of distribution; but whether it will meet with favor or not is yet to be ascertained. For myself, I am inclined to think that it will not. My present impression is, that the system now in operation should be continued, with the variations which I will now mention—and I will observe that the opinions I am about to express are not of recent date, but those I have entertained ever since I have arrived at manhood, and that I urged them during the first session at which I took my seat in the Senate. I am an advocate for pre-emptioners and pre-emption rights. By changing day-laborers and tenants into freeholders, an operation is effected which makes each individual more of a man, and more attached to his country; it elevates him from a necessitous situation to a more exalted and independent station; he enjoys the benefits of the whole proceeds of his labor, and there is no division of his earnings between himself and a landlord or a taskmaster. What he makes is his own, and he can rear up his family in a free air, and with an independent spirit. So thoroughly am I persuaded of this, that I would be willing to hold out inducements to those who now reside in the old States, and are unable to acquire a freehold, to go to the far West, and obtain an independence at a moderate price. I should be inclined to say to all such as may settle on the public lands, and show by a continued residence a determination to be permanent settlers, that they should have the lands at fifty cents per acre, or even less. And I ask, why should we not be liberal to those who go to the far West to better their fortunes? They are bone of our bone, and flesh of our flesh; and if any of the citizens of Tennessee wish to go, I repeat the language which I used

upon a former occasion: "Go and be happy, and may the God of all mercies protect and prosper you." I would graduate the price of the public lands; I would not continue the absurd practice of requiring as high a sum for poor as for rich lands. But let this plan of distribution prevail, and no settler need expect a pre-emption right, nor will the graduation of price ever be effected. In short, I consider this project of distribution as the deadliest blow that could be struck to the prosperity and advancement of the new States; therefore, if there were no other reason, I should oppose it.

Mr. President, I am not mistaken in my views upon this subject. I am a Western man; I was reared from my infancy among that description of men whose cause I advocate; I know their bravery in war, and honesty in peace. When our country needs soldiers, they are the men safest to be looked to; and, when money is needed, they will contribute what they have with a free good will.

The Senator from Kentucky (Mr. CRETCHDEN) asks, "What father would not give a portion of his property to save a member of his family from ruin?" I answer, none. But, in such case, the father gives his own property, which he has a right to dispose of at his pleasure; but we are asked to give property and money which we hold in trust for other purposes, and have no constitutional right to dispose of according to our will and pleasure.

The Senator from Vermont (Mr. PHELPS) says that this report is confused and indistinct, introducing different subjects, and blending them together. Not so; the fault is not in the report, but in those who thus read it. The first part of the report has exclusive reference to the assumption of the State debts by the General Government; it has nothing to do with the public lands, or the revenue arising from them; and so it is with the resolutions: the first three relate exclusively to the assumption of the State debts, and the fourth to the public lands and the revenue arising therefrom. He asks, what is meant by the terms "*direct*" and "*indirect*" in the first resolution? My answer is, that a *direct* assumption is an absolute promise to pay; *indirect*, is a guarantee or a conditional promise, or any other form or mode of assumption, by which the United States might become ultimately responsible. He further says he cannot vote for or against the resolutions without subjecting himself to misrepresentation. All I can say is, that this misrepresentation will not grow out of the report or resolutions—they are plain, distinct, and easily understood; and I can tell the honorable Senator that, if he expects to escape misrepresentation, he will be more fortunate than most members of this honorable body. He, and the Senator from Mississippi, (Mr. HENDERSON,) both say that, if I will prove that this Government had the constitutional right to purchase and pay for Louisiana and the Floridas out of the proceeds of the public lands, they will then show that



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Congress can dispose of the public money according to their will and pleasure. These honorable Senators must excuse me for not attempting to show the power and the right to purchase Louisiana and the Floridas; I respectfully decline all argument on that subject. I will not attempt to prove that three sovereign and independent States are constitutionally among us; I will not offend the people of these States by an argument to prove that they are properly a part and portion of this Confederacy; I will not insult six honorable Senators by an effort to show that they are rightfully members of this honorable body. I feel astonished that the honorable member from Mississippi (Mr. HENDERSON) should join in this inquiry and suggestion: he and his State stand closely allied and connected with the subject of this inquiry. His State was also purchased, and so was Alabama, by the General Government. The only difference is this: that Louisiana, Arkansas, and Missouri, were purchased from a foreign Government; his State, and the State of Alabama, were purchased from Georgia, one of the States of the Union. He ought, therefore, to be careful how he raises questions of this sort, and ask for discussions upon them. For my part, I go upon the decision of the Government of my country; it has settled these questions long since, and being no agitator, I will not agitate them here.

I am at a loss to know why it is that this report has been treated with more severity than usual. It has cost the gentlemen on the other side of the Senate no labor: if any reputation is to be lost, it will fall upon its author, and the committee who approved it. It may, however, be that a favorite scheme or plan of operations is broken in upon, and defeated by it. I have lately seen in the *National Intelligencer* statistical tables, showing how much the States of Virginia and Maryland, and the different counties in each of these States, would receive under the distribution land bill; but, at the same time, not one word was said in that print, showing the effects that would be produced by such a distribution. Now this report fully and clearly, in my opinion, demonstrates not only the injustice, the inexpediency, and the unconstitutionality of the assumption of the State debts, but that if the cupidity of the honest, independent, and high-minded people of this country is to be appealed to, (which was evidently the design of these publications,) even then the distribution of the land revenue would increase, instead of lighten, the burdens of the community.

The Senator from Kentucky, (Mr. CRITTENDEN,) in his commentaries on the report, asserts that we are for an exclusive metallic currency; and that we are making war upon the banks. I have already endeavored to show that in both these particulars, such accusations are unfounded. It is true we would, if we could, make banks honest; but the power to do so rests only with the States; they have created them, and

they alone can regulate and control them. The same Senator asks what difference there is between borrowing money from the lords of England, and borrowing it from our own citizens? a dollar is a dollar, no matter where it comes from? To my mind the difference is very palpable. If money be borrowed from our own citizens, the annual interest remains in this country; it is still among us, and constitutes a part of the nation's wealth; but if it be borrowed in Europe, and the interest be annually sent to the foreign capitalists who loaned it, then the wealth of this country is diminished to that amount. If two hundred millions of State bonds be held by foreign capitalists, it will take ten millions of dollars annually, at five per cent., to pay the interest. And this drain is constantly made, year by year, from the productive industry of this country; in short, it is a tax upon the labor of the people of the United States, amounting to one-tenth of all their surplus productions. This I view as a very serious evil, and one that ought not to be encouraged or promoted.

Mr. President, I have learned from the newspapers, and with regret, that in another body, the subject of the Presidential election was brought into discussion. I did hope and expect that we, at least, should hear nothing of it in this honorable body; but I have been mistaken. It has been introduced here; and the Senator from Kentucky, (Mr. CRITTENDEN,) though he disclaims the character of a prophet, has ventured to predict, that the days of the present dominant party are numbered. I have often heard the same thing said before, but the prophecy has often failed; and I have no doubt it will fail again.

This shows how equally happiness is distributed among men in this life. The Whigs, as they call themselves, are always victorious before the battle; the Republicans are so, when the battle comes; and from this time until November, we shall hear much of carousals, marching and countermarching, with banners displayed, throughout our country. They are happy in anticipation of success; the Republicans are so in actual success. Sir, the Whigs constitute the most hoping and hopeful party that ever existed in any country. They may well appropriate to their own use the idea, if not the language, of the poet:

"Hope springs eternal in the Whiggish breast:  
Whigs never are, but always to be, blest."

But the same honorable Senator tells us that he sees a light rising in the West, which inspires him with hope. Sir, my dull optics have not seen that light of which he speaks; and if the honorable Senator will look, some time hence, he will discover that he has mistaken for a substantial luminary, a small transient meteor, which has exploded, and left no trace behind. But I *have* seen a light arise in the West; and so brilliant was it, that it dimmed and obscured all the lesser lights around it; it ascended

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higher and higher, until it reached the meridian; there it remained stationary for a time; so effulgent was it, that it irradiated this whole continent; its rays crossed the Atlantic, and penetrated the courts and palaces of kings, and influenced their councils; it was seen and felt wherever civilized man dwelt. But that light is fast descending in the West; it has almost reached the horizon, and will soon be beyond the sight of mortals. Mr. President, you and I shall never see its like again; we are too old. Such lights do not visit our earth but at rare and long intervals. I need not say to the Senate, or to this audience, that the individual I have described, under the figure introduced by the Senator from Kentucky, is Andrew Jackson, the pride and glory of our country. When impartial history shall have faithfully performed its office, the aged men of after times will point him out to their children as a man to be imitated, but not be equalled.

I will now proceed to answer some of the remarks made by the Senator from New York, (Mr. TALLMADGE.) He says, this land was surrendered for the benefit of all the States—therefore the proceeds may be distributed to all. But this land was surrendered to the Confederacy of States, not to the States separately and individually. The right to impose duties on imports belonged to each State, within its own territory. This right was surrendered to the Federal Government; and the States could now claim, with the same propriety and reason, a distribution of the moneys arising from imports, and the claim would be as well founded as that which is now asserted with respect to the public lands.

That gentleman says that the debt of the State of New York is over-estimated by the committee; and this he attempts to prove, by saying that the State has a fund set apart to discharge a portion of her debt, and good and sufficient security for another part of it. This is a novel mode of proving that a debt does not exist: the gentleman's statement only goes to show that means of payment are provided—not that the debt does not exist. If you, Mr. President, have my note for a thousand dollars, and I have money to the same amount locked up in my desk, with which I mean to discharge my obligation, am I not still indebted to you for a thousand dollars until I shall pay you? The Senator mistakes the ability to pay for non-indebtedness.

## HOUSE OF REPRESENTATIVES.

THURSDAY, March 5.

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Mr. CAMPBELL, from the Committee of Elections, to which was referred the resolution of the House of the 28th ult., directing said committee to report forthwith to the House, which five of the ten candidates for seats as Representatives from the State of New Jersey, had received the greatest number of lawful

votes at the late election in that State, made a detailed report thereon, concluding with stating that Messrs. DICKERSON, VROOM, KILLS, RYALL, and COOPER, had received the greatest number of lawful votes.

## REPORT ON THE NEW JERSEY CONTESTED ELECTION.

In compliance with the resolution adopted by the House of Representatives, on the 28th ultimo, instructing the Committee of Elections to "report forthwith which five of the ten individuals claiming seats from the State of New Jersey, received the greatest number of lawful votes from the whole State for Representatives in the Congress of the United States at the election of 1838, in said State, with all the evidence of that fact in their possession: Provided, That nothing herein contained shall be so construed as to prevent or delay the action of said committee in taking testimony or deciding the said case upon the merits of the election." The committee submit the following

## REPORT:

While the committee, from the commencement of its labors in this important case, have been actuated by the most anxious desire to do justice to the individual claimants, to the ancient and honorable State for whose service they are maintaining an animated contest, and to the whole American people, who have a deep and abiding interest in preserving the purity of elections; and while, for securing so valuable a result, the committee had marked out a course somewhat different from that which seems now to be prescribed by the House, they cheerfully yield to its authority; and so far as they can ascertain its intention, they have no other inclination than to give it ample and speedy effect.

The committee, however, have encountered no inconsiderable difficulty in harmonizing all the terms of the resolution with that intention, which, from the circumstances of the case, as well as from the more prominent clauses of the resolution itself, they must understand to have governed the action of the House. To give every word in the resolution the full force of a literal interpretation, would be, perhaps, to raise such a conflict between the parts as to disable the whole. But instead of separating it into parts, the whole resolution should be so construed as to give expression to a distinct intention, which is capable of being ascertained and effectuated. As a portion of the House, the members of the committee are not ignorant of the importance that was attached to the insertion of the word "*lawful*," before the word "*votes*," in the resolution. Nor can they overlook the fact that connected with the proposition to insert, was the motion to strike out another word, utterly inconsistent with that broad and searching investigation which the insertion of the word "*lawful*" (without reference to other expressions in the resolution, or to the posture of the case itself) would seem to demand.

The House had referred to the committee the whole subject-matter of the controversy, and with it a mass of testimony having no application to any inquiry, short of the merits of the election. The committee had, as was well known to the House, entered upon this inquiry, and had adopted such measures for the procurement of testimony as

would probably probe to the core all frauds and illegalities. In the prosecution of this investigation a delay had occurred, the deplorable effects of which were as manifest to the committee as to the House.

When the proposition to instruct was originally introduced as an amendment to the application with which the committee had come before the House, its intent was clear that a report should be immediately made of the names of those who had received the greatest number of votes at the last Congressional election in New Jersey. If any thing more was wanting to explain the meaning of this proposition, it is to be found in the *proviso* which was added, and which clearly indicated that the action which the House was moved to demand, did not contemplate an interference with the course adopted by the committee for the "*taking of testimony, and deciding the case upon the merits of the election.*"

Under these circumstances, if the proposition to strike out the word "*forthwith,*" and insert the word "*lawful,*" had fully succeeded, there would still have remained that prominent clause of *proviso*; and it might well have been understood, that, notwithstanding the omission of the word "*forthwith,*" the House desired an immediate report; and that, notwithstanding the insertion of the word "*lawful,*" the House contemplated that the report should be independent of testimony, now under the process of being obtained, for the purpose of deciding the election upon its merits.

Upon what basis, then, could such a report be constructed? Manifestly not upon the partial, inconclusive, and incompetent testimony, as to the legality of votes now in the possession of the committee. The House cannot have contemplated a report, involving an investigation of the ballot boxes, without allowing time or opportunity for that investigation to be thorough.

At the same time, the committee cannot entirely overlook the word "*lawful,*" or strike that from the resolution which was inserted upon a contest so close as to require a casting vote for its decision. Did this word stand disconnected with, or unqualified by, the various considerations already alluded to, no doubt could be entertained as to its effect. It would lead to a thorough and final purgation of the polls, and would delay a report to that period, to which it was well known to the House that the committee had postponed a decision upon the question of ultimate right.

There is but one other basis left, and that is the *prima facie* case upon the returns of the local officers of the several polls; and, the nature of the controversy taken into consideration, it can scarcely be doubted that to this basis the resolution looked.

If this conclusion might reasonably have been reached, in the event of the complete and coeval success of the motions to strike out and insert, how much more easily is it attained when the resolution is found armed with the pungent word "*forthwith,*" quickening the action of the committee, and declaring opposition to the long delay which had been found inseparable from a thorough investigation into the legality of the votes.

If, therefore, the word "*lawful,*" surrounded as it is by every thing which negatives the idea of a mere adherence to the original course of the committee, can be made to harmonize with the context of the resolution, and the circumstances under which it was

adopted, by every sound rule of construction, that end should rather be attained by limiting the meaning of that word, than by bending the reason and language of all the rest (if that were possible) to its strongest and amplest signification.

The committee are therefore of opinion that they correctly construe that word with the context, when they limit its signification to that *prima facie* lawfulness of votes which arises upon their reception at polls held in conformity with law; and in thus limiting its signification, they feel themselves sustained by the general language and spirit of the resolution, and by the situation of the case itself.

The committee are confirmed in this construction, and the course consequent thereon, by the consideration that any judgment looking beyond the face of the polls, which they might base upon the inconclusive testimony in their possession, would be unsatisfactory to the House, unjust to the parties, and calculated to produce erroneous conclusions in relation to a mass of facts which appear to be verified by the oaths of the voters, but which, either because of the extra judicial administration of the oaths, or the want of due notice to the opposite parties, have been rejected as not sufficiently proven. It is proper, however, to state that, *should all the votes proved to be illegal by competent testimony, be deducted from those who received the greatest number at the polls, which appear to have been held in conformity with law,* the result would not affect the right of any candidate to a seat.

With this explanation, which they have considered due to the House, and to themselves, the committee will now proceed to examine the allegations against the validity of certain township elections, as far as such an examination can be made upon the testimony in their possession.

Upon this branch of the case, the claimants holding the Governor's commissions, claim—

1st. That, *apart from their not being received in time to be counted according to law, the votes of Millville should be set aside for the fraudulent and illegal conduct of the officers of election, in proclaiming their intention to receive the votes of aliens, and in receiving a large number of such knowingly, and in violation of the laws of the State.*

Without inquiring into the effect of these charges, if they were substantiated by competent and satisfactory testimony, it is sufficient to state that they were unsupported by any testimony in the possession of the committee.

2d. They allege that, *apart from all defects and irregularities in the return, the votes of South Amboy should be set aside, because one of the officers of election duly chosen, was unlawfully prevented from acting, and another substituted in his place, who acted and signed the list, &c.; and because the board, thus unlawfully constituted, received a large number of alien votes contrary to law.*

In support of these allegations, numerous depositions have been produced, but without expressing any opinion, whether, if satisfactorily proved, they would constitute sufficient evidence of fraud to set aside the votes of this township; it is only necessary to state that the evidence was taken *ex parte*, without sufficient notice, and has been rejected by the committee, as incompetent to be considered in this case.

3d. It is further claimed, that the poll held at Saddle River, in Bergen county, should be set aside: *Because at least eight votes given for them were fraudulently abstracted from the ballot box, and as*

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many for their opponents fraudulently substituted: Because in making out the list of votes in said township, at least eight votes less than were given for them were counted in their favor, and at least as many were counted for their opponents, more than they received: and because the list of votes in said township bears upon its face evidence of mistake or fraud.

In support of these charges, the depositions of numerous voters have been submitted; but, being taken *ex parte*, and without sufficient notice, they have been rejected by the committee, as incompetent testimony.

It is also claimed that the polls held at the townships of Newton, Harderton, and Vernon, in Sussex county, should be set aside, for reasons that will more fully appear by reference to the document marked A, accompanying this report. But there is no competent evidence before the committee in support of these allegations.

Having thus disposed, for the present, of the various objections to the validity of the elections held at the several townships claimed to be set aside, the committee will now proceed to ascertain "which five of the ten claimants received the greatest number of lawful votes" at the late Congressional election in New Jersey, according to the several returns purporting upon their face to be made by officers duly authorized to act.

The committee take as the basis of their calculation, the statement upon which the Governor and Privy Council of New Jersey made their decision, and which is found in the minutes of the proceedings of the Governor and Privy Council.

From this statement it appears that the total of votes for each of the ten claimants was as follows:

For Philemon Dickerson	-	-	27,951
Peter D. Vroom	-	-	27,990
Daniel B. Ryall	-	-	27,939
William R. Cooper	-	-	27,954
Joseph Kille	-	-	27,924
John B. Ayerig	-	-	28,150
John B. P. Maxwell	-	-	28,239
William Halsted	-	-	28,192
Chas. C. Stratton	-	-	28,252
Thos. Jones Yorke	-	-	28,177
Philemon Dickinson	-	-	3
John B. Ayerig	-	-	1

In this statement, as it appears to the satisfaction of the committee, and has not been denied or the contrary pretended, the votes received at the townships of Millville and South Amboy are not included. The state of the polls is exhibited by the documents (marked C and D) accompanying this report, whereby it appears that the total of votes of the two townships, for each of the ten claimants, was as follows:

Philemon Dickerson	-	-	502
Peter D. Vroom	-	-	502
Daniel B. Ryall	-	-	502
William R. Cooper	-	-	501
Joseph Kille	-	-	502
J. B. Ayerig	-	-	144
J. P. B. Maxwell	-	-	144
William Halsted	-	-	145
C. C. Stratton	-	-	144
T. J. Yorke	-	-	144

These votes being added respectively to those set forth in the documents marked B, already referred to as the basis of the Governor's commissions, the following results are exhibited, to wit:

FOR PHILEMON DICKERSON.			
Votes counted by the Governor and			
Privy Council	-	-	27,951
Votes of Millville and South Amboy	-	-	502
Total for Philemon Dickerson			28,453

FOR PETER D. VROOM.			
Votes counted by the Governor and			
Privy Council	-	-	27,990
Votes of Millville and South Amboy	-	-	502
Total for Peter D. Vroom			28,492

FOR DANIEL B. RYALL.			
Votes counted by the Governor and			
Privy Council	-	-	27,939
Votes of Millville and South Amboy	-	-	502
Total for D. B. Ryall	-	-	28,441

FOR WILLIAM R. COOPER.			
Votes counted by the Governor and			
Privy Council	-	-	27,954
Votes of Millville and South Amboy	-	-	501
Total for William R. Cooper			28,455

FOR JOSEPH KILLE.			
Votes counted by the Governor and			
Privy Council	-	-	27,924
Votes of Millville and South Amboy	-	-	502
Total for Joseph Kille	-	-	28,426

FOR JOHN B. AYCRIGG.			
Votes counted by the Governor and			
Privy Council	-	-	28,150
Votes of Millville and South Amboy	-	-	144
Total for John B. Ayerig	-	-	28,294

FOR JOHN P. B. MAXWELL.			
Votes counted by the Governor and			
Privy Council	-	-	28,239
Votes of Millville and South Amboy	-	-	144
Total for John P. B. Maxwell	-	-	28,383

FOR WILLIAM HALSTED.			
Votes counted by the Governor and			
Privy Council	-	-	28,192
Votes of Millville and South Amboy	-	-	145
Total for William Halsted	-	-	28,337

FOR CHARLES C. STRATTON.			
Votes counted by the Governor and			
Privy Council	-	-	28,252
Votes of Millville and South Amboy	-	-	144
Total for Charles C. Stratton	-	-	28,396

FOR THOMAS JONES YORKE.			
Votes counted by the Governor and			
Privy Council	-	-	28,177
Votes of Millville and South Amboy	-	-	144
Total for Thomas Jones Yorke			28,321

It will be observed that the foregoing statement does not include as votes for Philemon Dickerson the three votes stated in the document marked B, as having been given to Philemon Dickinson, and which, if added to the votes for Philemon Dickerson, would make a total of 28,456.

The addition of the one vote stated in like manner as having been given for John B. Ayerig, to the

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votes for John B. Aycrigg, would make a total of 28,295.

Thus it appears that, *prima facie*, upon the evidence in the possession of the committee, Philemon Dickerson, Peter D. Vroom, Daniel B. Ryall, William R. Cooper, and Joseph Kille, are the "five of the ten individuals claiming seats from the State of New Jersey, [who] received the greatest number of lawful votes from the whole State for Representatives in the Congress of the United States, at the election of 1838, in said State."

## IN SENATE.

FRIDAY, March 6.

*Assumption of State Debts.*

The report of the Select Committee on the assumption of State debts, was then taken up, and after an animated debate, in which Messrs. DAVIS, BUCHANAN, PRESTON, KING, NORVELL, CLAY of Kentucky, BROWN, and CALHOUN, participated,

Mr. WEBSTER moved an adjournment; which was decided in the negative.

The question then coming up on the resolutions reported by the Select Committee,

The CHAIR stated the question as follows:

The Senator from Pennsylvania, Mr. BUCHANAN, had moved to amend the resolutions of the committee, by adding the following:

*Resolved*, That the debts of the several States, so far as they are known to the Senate, have been contracted in the exercise of the undoubted right and constitutional power of said States respectively, and that there is no ground to warrant any doubt of the ability or disposition of those States to fulfil their contracts.

For which amendment, Mr. NORVELL offered the following as a substitute:

*Resolved*, That while the Senate of the United States is fully impressed with the importance and correctness of the principles contained in the foregoing resolutions, it is not intended thereby to create any doubt of the constitutional right of the States to contract debts, nor of their resources, disposition, or ability to fulfil the engagements which they have contracted for purposes of internal improvement, as well as for other objects within the range of their reserved powers.

The question was now on the substitute of Mr. NORVELL; which was agreed to as follows:

YEAS.—Messrs. Allen, Anderson, Benton, Brown, Calhoun, Clay of Alabama, Cuthbert, Fulton, Grundy, King, Linn, Lumpkin, Mouton, Nicholas, Norvell, Roane, Robinson, Sevier, Strange, Sturgeon, Tappan, Wall, Williams, and Wright—26.

NAYS.—Messrs. Buchanan, Clay of Kentucky, Crittenden, Davis, Dixon, Henderson, Knight, Merrick, Phelps, Porter, Prentiss, Preston, Ruggles, Smith of Indiana, Southard, Spence, Webster, and White—18.

The question then being on the adoption of Mr. BUCHANAN's motion as amended, after some remarks by Messrs. SMITH of Indiana, CRITTENDEN, NORVELL, WEBSTER, and KING,

On motion of Mr. KING, and by unanimous

consent, it was considered as withdrawn for the present.

The substitute proposed by Mr. CRITTENDEN for the resolutions of the committee, was then taken up, and was as follows:

*Resolved*, That the debts of the several States, so far as they are known to the Senate, have been contracted in the exercise of the undoubted right and constitutional power of said States respectively, and that there is no ground to warrant any doubt of the ability or disposition of those States to fulfil their contracts.

*Resolved*, That it would be just and proper to distribute the proceeds of the sales of the public lands among the several States, in fair and ratable proportions, and that the condition of such of the States as have contracted debts is such at the present moment of pressure and difficulty as to render such distribution especially expedient and important.

After some remarks by Mr. PRESTON, the question on the substitute was taken, and it was rejected, as follows:

YEAS.—Messrs. Betts, Clay of Kentucky, Crittenden, Davis, Dixon, Knight, Merrick, Phelps, Porter, Prentiss, Ruggles, Smith of Indiana, Southard, Spence, Tallmadge, Webster, and White—17.

NAYS.—Messrs. Allen, Anderson, Benton, Brown, Calhoun, Clay of Alabama, Cuthbert, Fulton, Grundy, Henderson, Hubbard, King, Linn, Lumpkin, Mouton, Nicholas, Norvell, Pierce, Preston, Roane, Robinson, Sevier, Strange, Sturgeon, Tappan, Wall, Williams, and Wright—28.

Mr. PRESTON then moved to amend the resolutions of the committee by striking out all after the word resolved, and inserting the following as a substitute:

*Resolved*, That the debts of the several States, so far as they are known to the Senate, have been contracted in the exercise of the undoubted right and constitutional power of said States respectively, and that there is no ground to warrant any doubt of the ability or disposition of those States to fulfil their contracts.

After some remarks by Messrs. WEBSTER and KING,

Mr. NORVELL said that the amendment offered by him, and voted on by the Senate, had been withdrawn, with the general understanding that no other amendment should be offered until a vote was taken on the resolution of the committee. The course taken by the Senator from South Carolina would compel him to move the proposition which he had withdrawn, as a substitute for the Senator's amendment; and he accordingly made that motion.

Mr. PRESTON then withdrew his motion to amend.

The first resolution of the Select Committee was then read, as follows:

1. *Resolved*, That the assumption, directly or indirectly, by the General Government, of the debts which have been, or may be, contracted by the States for local objects or State purposes, would be unjust, both to the States and to the people.

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Mr. PRENTISS moved to strike out the words "directly or indirectly," and insert "or guarantee."

After some remarks by Messrs. PRENTISS, KNIGHT, and GRUNDY,

Mr. WEBSTER moved an adjournment, which was negatived—ayes 10, noes 27.

The question was then taken on the amendment proposed by Mr. PRENTISS, and decided in the negative, as follows:

YEAS.—Messrs. Betts, Dixon, Knight, Phelps, Prentiss, and Ruggles—6.

NAYS.—Messrs. Allen, Anderson, Benton, Buchanan, Calhoun, Clay of Alabama, Cuthbert, Fulton, Grundy, Hubbard, King, Linn, Lumpkin, Mouton, Nicholas, Norvell, Pierce, Roane, Robinson, Sevier, Smith of Indiana, Strange, Sturgeon, Tappan, Wall, Williams, and Wright—27.

Mr. RUGGLES then moved to amend by striking out "or State purposes." Mr. R. assigned as a reason, that the debt recently incurred by the State of Maine, in defending her frontier, might be considered a State debt, and, by this resolution, the future payment of it debarred.

Mr. WILLIAMS said, as his colleague had objected to this resolution, and as he intended to vote for it, he wished to give a reason for so doing. He considered the debt incurred by his State, in defending the frontier, as not the debt of Maine, but as the debt of the United States, which would, he expected, be paid without hesitation by the General Government.

Mr. BENTON. Certainly. The boundary of Maine was the boundary of the United States. [In this sentiment there was a very general acquiescence.]

After some further remarks by Messrs. RUGGLES and WALL,

Mr. NORVELL said that the defence of the State of Maine was the defence of the United States. The protection of the North-eastern boundary of Maine was the protection of the boundary of the nation. The expenses incurred in that defence and protection were national expenses; and he would tell the Senator from Maine, (Mr. RUGGLES,) that, if he came here to claim reimbursement of the moneys expended in the maintenance of her boundary rights against a foreign power, on the ground of its being a local subject, or a State purpose, he would, in his judgment, go home without success. The worthy colleague of the Senator (Mr. WILLIAMS) had taken the right view of the subject. The resolution against the assumption of State debts contracted for local objects and State purposes, had no reference to such cases as the defence of a State against foreign aggression.

Mr. RUGGLES demanded the yeas and nays on his amendment, but they were not ordered, and it was negatived without a division.

The question was then taken on the first resolution, and it was agreed to, as follows:

YEAS.—Messrs. Allen, Anderson, Benton, Brown, Buchanan, Calhoun, Clay of Alabama, Cuthbert,

Dixon, Fulton, Grundy, Henderson, Hubbard, King, Linn, Lumpkin, Mouton, Nicholas, Norvell, Pierce, Prentiss, Roane, Robinson, Sevier, Strange, Sturgeon, Tappan, Wall, Williams, and Wright—30.

NAYS.—Mr. Smith of Indiana—1.

The second resolution was then read as follows:

2. *Resolved*, That such assumption would be highly inexpedient, and dangerous to the Union of the States.

After some remarks from Mr. DIXON, it was agreed to, as follows:

YEAS.—Messrs. Allen, Benton, Brown, Buchanan, Calhoun, Clay of Alabama, Cuthbert, Fulton, Grundy, Hubbard, King, Linn, Lumpkin, Mouton, Nicholas, Norvell, Pierce, Prentiss, Roane, Robinson, Sevier, Strange, Sturgeon, Tappan, Wall, Williams, and Wright—28.

NAYS.—Messrs. Dixon, Smith of Indiana, and White—3.

The third resolution was then read as follows:

3. *Resolved*, That such assumption would be wholly unauthorized by, and in violation of, the Constitution of the United States, and utterly repugnant to all the objects and purposes for which the Federal Union was formed.

And it was agreed to, as follows:

YEAS.—Messrs. Allen, Anderson, Benton, Brown, Buchanan, Calhoun, Clay of Alabama, Cuthbert, Fulton, Grundy, Henderson, Hubbard, King, Linn, Lumpkin, Mouton, Nicholas, Norvell, Pierce, Prentiss, Roane, Robinson, Sevier, Strange, Sturgeon, Tappan, Wall, Williams, and Wright—29.

NAYS.—Messrs. Dixon, Smith of Indiana, and White—3.

The fourth resolution was then read as follows:

4. *Resolved*, That to set apart the public lands, or the revenues arising therefrom, for the before-mentioned purposes, would be equally unjust, inexpedient, and unconstitutional.

Mr. BENTON moved to amend by striking out all after the word *Resolved*, and insert, "That the assumption of such debts, either openly, by a direct promise to pay them, or disguisedly, by giving security for their payment, or by creating surplus revenue, would be a gross and flagrant violation of the constitution, and wholly unwarranted by the letter or spirit of that instrument," which was agreed to, without division.

Mr. NORVELL then moved to amend, by adding the following:

5. *Resolved*, That while the Senate of the United States is fully impressed with the importance and correctness of the principles contained in the foregoing resolutions, it is not intended thereby to create any doubt of the constitutional right of the States to contract debts, nor of their resources, disposition, or ability to fulfil the engagements which they have contracted for purposes of internal improvement, as well as for other subjects within the range of their reserved powers.

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Which was agreed to, as follows :

YEAS.—Messrs. Allen, Anderson, Benton, Brown, Buchanan, Clay of Alabama, Cuthbert, Fulton, Grundy, Henderson, King, Linn, Lumpkin, Mouton, Nicholas, Norvell, Roane, Robinson, Sevier, Sturgeon, Wall, Williams, and Wright—28.

NAYS.—Messrs. Calhoun, Hubbard, Pierce, Smith of Indiana, Strange, Tappan, and White—7.

Mr. BETTS then offered the following as an amendment:

*Resolved*, That the distribution of the public lands, or the revenues arising therefrom, among the several States, would be equally unjust, unconstitutional, and inexpedient.

Mr. WRIGHT asked for the yeas and nays on this amendment. He wished to see if the Senator from Connecticut would vote for his own proposition ; or if, at this late hour of the evening, propositions are made which the Senators offering them will not vote for themselves.

Mr. BETTS said he would not vote for it, but his object was to get a direct vote of the Senate on the proposition.

After some remarks from Mr. CLAY, of Alabama, on the impropriety and irregularity of offering a proposition identical with one which had just been acted on,

Mr. KING said, if the CHAIR decided the motion to be in order, an appeal could be taken from the decision of the CHAIR, and it would then be time enough to debate the motion.

The CHAIR decided the motion to be out of order.

Mr. PRENTISS then moved to further amend the resolution by inserting the following :

"But nothing contained in the foregoing resolutions is to be understood as denying or questioning the right or power of Congress to make an equal distribution of the proceeds of the public lands, among all the States, according to the terms and conditions of the deeds of cession."

The amendment was disagreed to, as follows :

YEAS.—Messrs. Betts, Dixon, Prentiss, Robinson, Smith of Indiana, and White—6.

NAYS.—Messrs. Allen, Anderson, Benton, Brown, Calhoun, Clay of Alabama, Cuthbert, Fulton, Grundy, Henderson, Hubbard, King, Linn, Lumpkin, Mouton, Nicholas, Norvell, Pierce, Roane, Sevier, Strange, Sturgeon, Tappan, Wall, and Wright—25.

So the resolutions were agreed to, as follows :

1. *Resolved*, That the assumption, directly or indirectly, by the General Government, of the debts which have been, or may be, contracted by the States for local objects or State purposes, would be unjust both to the States and to the people.

2. *Resolved*, That such assumption would be highly inexpedient, and dangerous to the Union of the States.

3. *Resolved*, That such assumption would be wholly unauthorized by and in violation of the Constitution of the United States, and utterly repugnant to all the objects and purposes for which the Federal Union was formed.

4. *Resolved*, That the assumption of such debts, is either openly by a direct promise to pay them, or disguisedly, by giving security for their payment, or by creating surplus revenue, or by applying the national funds to pay them, would be a gross and flagrant violation of the constitution, and wholly unwarranted by the letter or spirit of that instrument.

5. *Resolved*, That while the Senate of the United States is fully impressed with the importance and correctness of the principles contained in the foregoing resolutions, it is not intended thereby to create any doubt of the constitutional right of the States to contract debts, nor of their resources, disposition, or ability to fulfil the engagements which they have contracted for purposes of internal improvement, as well as for other subjects within the range of their reserved powers.

On motion, the Senate, at 8 o'clock, adjourned until Monday next.

WEDNESDAY, March 11.

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Mr. LUMPKIN presented the following resolutions of the Legislature of Georgia :

The Federal Constitution having been framed partially with a view to regulate the constitutional intercourse between the sovereign States that ordained it, and having conferred all the powers necessary and proper for carrying its provisions into full effect upon a Congress of the United States, it is incumbent on that body, by its legislation, to secure the several States in the enjoyment of their constitutional rights. Not the least important stipulation in that compact is, that "a" person charged with treason, felony, or other crime, who shall flee from justice and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime.

Doubtless the past legislation on this subject has been predicated upon the presumption that each State having, in the pledged faith of all the others, a sufficient guarantee, nothing more was requisite than to prescribe the forms which should give authenticity to the demand ; doubtless, too, in the time which gave birth to the constitution, whilst the Union was young and her Revolutionary associations fresh and warm, this presumption found its warrant in the mutual fidelity which promptly responded to all Executive demands. To this generation has been reserved the humiliating spectacle of a sovereign State making herself a city of refuge for fugitive felons from her sister confederates. Two such cases of recent occurrence demonstrate the utter inefficiency of the existing laws for carrying into effect the provision of the constitution. They, moreover, clearly indicate the cause of this inefficiency. Those laws are dependent for their execution upon the mere will of the Executive officers of the several States, who neither are nor can be made responsible to the General Government. If, then, it be correctly assumed that the Federal Legislature is bound to make ample provision for the contemplated exigency, and if experience has proved that reliance on State authorities is delusive, the question occurs, whether there be any other mode which gives fairer promise of security? May not the object be accomplished by employing in that service

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officers appointed by, and responsible to, the Federal Government? Inasmuch as that Government has employed in every State of the Union competent judicial and ministerial officers, it is believed that this duty, enjoined by the highest obligation, and intimately connected with the harmony and perpetuity of the Union, may be appropriately and efficiently performed through their instrumentality. There would seem to be a peculiar fitness in providing that the aid which she is bound to afford to the State judiciaries, should result from the action of her own judiciary. The process would be simple, and the agents directly responsible to the power whence the laws to be executed emanate.

*Be it therefore resolved,* That the statutes of the United States enacted to carry into effect the latter clause of the second section of the fourth article of the constitution, are wholly inadequate to the object.

*Be it further resolved,* That, in the opinion of this General Assembly, those statutes should be so amended, as, 1st, to authorize the demand in the cases contemplated to be made upon the Circuit Judge of the United States having jurisdiction in the State wherein such fugitive may be found; 2d, to require that such judge, upon such demand being made in due form of law, shall issue his warrant to be directed to the Marshal of the United States in the State wherein such fugitive may be, requiring his arrest and delivery to the agent duly authorized to receive him who shall be named in such warrant; 3, to require each marshal, to whom any such warrant shall be delivered, forthwith to execute the same.

*Be it further resolved,* That our Senators in Congress be instructed, and our Representatives be requested, to have the act of Congress, passed on the 12th of February, 1793, to carry into effect the second section of the fourth article of the Constitution of the United States, so amended, as to make it obligatory on the said district judge to surrender any person who may be found in any State or Territory, or who is charged, in any other State or Territory, with the commission of any act which is constituted a crime by the laws of said State, or Territory, where he is so charged, to the Executive authority of the State or Territory where the offence is alleged to have been committed.

*Be it further resolved,* That his Excellency, the Governor, be requested to forward to our Senators and Representatives in Congress copies of the above preamble and resolutions, with a request that they endeavor to procure such amendments of the statutes in question, as in their judgment will be best calculated to affect the desired object.

ROBT. M. ECHOLS,

President of the Senate.

Attest: DAVID J. BAILEY.

JOSEPH DAY,

Speaker of the House of Representatives.

Attest: JOSEPH SURGER, Clerk.

APPROVED, 24th December, 1839.

CHARLES J. McDONALD, Governor.

Mr. LUMPKIN said: Mr. President, I must ask the indulgence of the Senate, while I submit a few remarks in connection with the subject of the resolutions that have just been read by the Secretary of the Senate. These resolutions have received the sanction of a majority of both branches of the Legislature of Georgia,

as well as the assent of the Governor of the State. They therefore possess all the requisite forms of legislation required by the constitution of the State that I in part represent, to entitle them to my highest respect and consideration. Moreover, I am instructed by these resolutions to sustain the views of the Legislature, as therein pointed out and suggested.

In order, Mr. President, that the Senate and people of the United States may clearly understand the pending controversy between the two States—Georgia and Maine—I deem it important that a history of the facts and circumstances connected with the case should be briefly presented. They are as follows:

In May, 1837, a man slave by the name of Atticus, the property of James Sagurs and Henry Sagurs, citizens of the city of Savannah, and county of Chatham, in the State of Georgia, was conveyed to the State of Maine, by Daniel Philbrook and Edward Killeran, citizens of the State of Maine, being master and mate of the vessel on board of which said slave was conveyed; which vessel was known by the name of the schooner Boston, and which had recently been in the port of Savannah. On the 16th of June, in the same year, James Sagurs, one of the owners of said slave, complained on oath before a magistrate of Chatham county, that Daniel Philbrook and Edward Killeran "did, on or about the 4th day of May last, feloniously inveigle, take, steal, and carry away without the limits of the State of Georgia," the slave Atticus; that the said Daniel Philbrook and Edward Killeran have been guilty, as the deponent is informed and believes, of a felony under the laws of this State; and "that since the commission of said felony, the said Philbrook and Killeran have fled from the State, and are, as he believes, at this time, within the limits of the State of Maine, in the United States."

Whereupon a warrant for the apprehension of Philbrook and Killeran was issued by the magistrate before whom the information was made. On the same day, the officer charged with its execution, made a return that they were not to be found in the county of Chatham. And on the 21st of the same month, the then Governor of the State of Georgia, William Schley, made a demand upon Robert P. Dunlap, then Governor of the State of Maine, of Philbrook and Killeran, as fugitives from the justice of the laws of Georgia, charged with feloniously inveigling, stealing, taking, and carrying away the slave Atticus, and transmitting with his demand, a copy of the affidavit and warrant, and the return, duly authenticated. On the 18th of August of the same year, Governor Dunlap addressed to Governor Schley a communication, in which he declined to cause the arrest of Philbrook and Killeran.

In December, 1837, the Legislature of Georgia adopted resolutions declaring the refusal of the Governor of Maine to surrender



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Philbrook and Killeran, dangerous to the rights of the people of Georgia, and directly and clearly in violation of the plain letter and spirit of the Constitution of the United States. That the State of Georgia became a party to the Federal Constitution no less for the better protection of her own than the common rights and interests of all, and that when these ends are defeated, she is released from the obligations of that compact, and it has become her right and her duty to provide protection for her people in her own way. That when an indictment should be found against Philbrook and Killeran, the Executive be requested to renew the demand for their arrest; and if the demand be again refused by the Executive of Maine, that a copy of its resolutions be transmitted to the Executive of each State of the Union, to be laid before their respective Legislatures; that a copy be transmitted to the President of the United States, and to the Senators and Representatives of Georgia, in Congress, to be submitted to that body; and if the Legislature of Maine, at its next session, after these resolutions shall have been forwarded by the Executive of that State, neglect to redress the grievance complained of, then the Executive of Georgia shall announce the same by proclamation, and call a convention of the people, to take into consideration the state of the Commonwealth of Georgia, and to devise the course of her future policy, and provide all necessary safeguards for the protection of the rights of her people.

On the 7th of February, 1838, an indictment charging Philbrook and Killeran with larceny, in feloniously inveigling, stealing, taking, and carrying away the slave Atticus, was found by the grand jury of Chatham county; and on the 27th of April following, Governor Gilmer, the successor of Gov. Schley, made upon Gov. Kent, the successor of Gov. Dunlap, the demand requested by the Legislature of Georgia, and accompanied the demand with a copy of the indictment found, and the proceedings on which it was founded, duly authenticated. On the 25th of June following, Governor Kent declined to order the arrest and surrender required by the authorities of Georgia.

On the 19th of August, 1839, Governor Gilmer addressed a communication to Governor Fairfield, the successor of Governor Kent, requesting to be informed of the action of the Legislature of Maine on the subject of the resolutions of Georgia, and received for answer the proceedings of the Legislature of Maine, declaring it inexpedient to legislate on the subject, as it is exclusively within the province of the Executive Department. The second clause of the second section of the fourth article of the Constitution of the United States provides, "That a person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on the demand of the Executive authority of the State from which he fled, be delivered

up to be removed to the State having jurisdiction of the crime."

Moreover, the act of Congress of 1793 declares, "that whenever the Executive authority of any State in the Union, or either of the Territories, north-west or south of the river Ohio, shall demand any person, as a fugitive from justice, of the Executive authority of any such State or Territory, to which such person shall have fled, and shall moreover produce the copy of an indictment found, or an affidavit made before a magistrate of any State or Territory as aforesaid, charging the person so demanded with having committed treason, felony, or other crime, certified as authentic by the Governor, or Chief Magistrate of the State or Territory from which the person so charged fled, it shall be the duty of the Executive authority of such State or Territory to which such person shall have fled, to cause him or her to be arrested and surrendered, and notice of the arrest to be given to the Executive authority making the demand, or to the agent of such authority appointed to receive the fugitive, and to cause the fugitive to be delivered to such agent when he shall appear. And further, sir. By the penal code of Georgia, "simple larceny is the felonious taking and carrying away the personal goods of another;" and the same code provides, that "any person or persons who shall feloniously take and carry away a slave, shall be punished by imprisonment and hard labor in the penitentiary, for any time not less than three years, and not longer than seven years."

Thus, sir, I have given a brief statement of the principal facts connected with this case, up to the meeting of the Legislature of Georgia, which passed the resolutions now presented to the Senate. And I must be permitted to say, that I entertain no doubt of these simple facts being amply sufficient to justify and vindicate the prudence, the justice, and patriotism, of every step taken by the authorities of Georgia in connection with this matter. If a more ample vindication of the proceedings of Georgia be sought for, it may be found in an attentive perusal of the correspondence of the Governors of the two States on this subject, which I will herewith present. I feel confident, sir, that no Senator in this hall could rise from a full investigation of this subject, without a settled conviction of the spirit of justice, forbearance, and patriotism, of the State of Georgia, in connection with this controversy.

I am aware, sir, that the moderation and forbearance of Georgia in this case, has been censured and reproached by some. But, sir, forbearance and magnanimity become those who are conscious that they contend for nothing but what is strictly right, and will ultimately submit to nothing which is materially wrong. I believe, Mr. President, there was some diversity of opinion in one branch of the Legislature which passed these resolutions. Those who opposed their passage, were unwilling to bring the subject before the Congress of the United

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States. They preferred seeking redress by State legislation, relying at once upon the reserved rights and sovereignty of the State to protect its citizens from all such aggressions as that complained of in the case now under consideration. And I consider it my duty, sir, to state, upon the present occasion, that I entertain no doubt of the constitutional right, power, and expediency, of the States of this Union protecting their own citizens in their property of every description; and in every case where the rights of property are not constitutionally protected by the Federal Government, then the duty of affording the proper protection to the citizen, devolves on the State. And, sir, I am not mistaken when I assure you that this right of the State is fully admitted and recognized by that portion of the Legislature of Georgia, who passed these resolutions, as fully as by those who were opposed to their passage. The patriotic object of the Legislature in the passage of these resolutions, is, if practicable, to avoid further controversy and conflict with a sister State—to avoid all measures that may be calculated to weaken the bonds of the Federal Union. Therefore this subject has been submitted to the deliberation and wisdom of Congress. I forbear the expression of any opinion at this time, as to the expediency and constitutionality of further legislation by Congress on this subject. It is a subject which demands the most grave consideration. It is a subject involving questions of the greatest importance to the peace and harmony of this Union. Therefore, if any thing can with propriety be done by Congress, to aid in the avoidance of such controversies as the one now under consideration, what may be properly done ought to be done without unnecessary delay.

If this Federal Government has no constitutional right to interpose efficiently in preventing these conflicts between the authorities of the States, then the States must of necessity and right act for themselves.

I will again repeat, sir, that I presume that unanimity of feeling and opinion pervades the breasts of all parties and classes in Georgia, in regard to the constitutional right of the State, to legislate efficiently in protecting our slave property from such aggressions as the one complained of in the present case. It is true, these resolutions, as I am informed, were opposed in their passage by some of the gentlemen, who call themselves *State Rights men*; and be it far from me to deny to them the right of their selection of a name. But suffer me, sir, to assure you and the Senate that those who passed the resolutions on your table, are no less backward in defending *State Rights*, than those who are known by that name. There is no party in Georgia opposed to State Rights. We are all in favor of a strict construction of the Constitution of the United States. This Government is considered by all to be a Government of enumerated powers. The principle, that it can exercise only the powers granted to it by the

constitution, is now universally admitted by all parties in Georgia. Though the application of these principles, has produced, will occasionally produce, conflicting opinions and views, and will probably continue to do so as long as our system of Government exists, I take it to be a settled principle in the State of Georgia, agreed to by all parties, that those subjects of legislation which are not enumerated in the surrender to the General Government, remain subject to State legislation and regulation; and it follows, of course, that the sovereignty of the States over all subjects, not having been abridged, impaired, or altered by the Constitution of the United States, is as perfect, full, and complete as if the Constitution of the United States had never been adopted. Each State now, as before the adoption of the Federal Constitution, is a single sovereign power; a nation over whom no external power can operate, whose jurisdiction is necessarily exclusive and absolute within its own boundaries, and susceptible of no limitation not imposed by itself, by a constitutional grant of power to the Federal Union. The original jurisdiction of the State adheres to its territory as a portion of its sovereignty not yet given away, or subject to the grant of power in the Federal Constitution, and may therefore be numbered with the residuary powers which remain in the State. But, sir, having expressed the opinion that the State has the constitutional right to protect the property of her citizens, suffer me to remark, in support of that opinion, that the history of the adoption of the articles of confederation, as well as that of the adoption of the Constitution of the United States, affords demonstration, that the people of the several States, however desirous to form a Confederation, Union, or General Government, were never willing for a moment, under any circumstances, to confide to a General Government the control or management of their separate and internal policy. The greatest fear of granting the power of taxation to the Federal Government, did not arise so much from a fear of taxation itself, as that the power might be used as a pretext for interfering with their internal affairs.

It was indispensable, however, to the efficiency of any Federal Government, that it should have the power of regulating foreign commerce, and between the States, by laws of uniform operation throughout the United States, yet it was considered at the time one of the most delicate subjects that could be touched, on account of the difficulty of imposing restraints upon the extension of such power, to matters not directly appertaining to commercial regulation. This cautious spirit may be plainly seen in the guarded language of the constitution, in the grant of the power of taxation, and the regulation of commerce, which give them in the most express terms, yet in such as admit of no extension to other subjects of legislation, which are not included in the enumeration of powers. Congress, while limited to the objects of taxa-

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tion defined in the constitution, may not expect to come into collision with State laws; but the power to regulate commerce is admitted to be a subject of great difficulty, owing to the peculiar situation of our country, and form of our political institutions. In other nations, it is only of two descriptions, foreign and domestic; in a confederate Government we necessarily have a third—that is, commerce between the constituent members of the confederacy. And in the United States, there was a fourth, which was carried on with the numerous Indian tribes who, at the formation of the Federal Constitution, occupied a vast portion of the territory. Each description of commerce recognized in the Constitution of the United States, is, from its nature, distinct from the other, in the mode of conducting it, the subjects of operation, and its regulation.

Let it be kept in mind that the States have never surrendered their rights to regulate internal commerce, within their own boundaries. The grant given to the Federal Government is confined “to regulate commerce with foreign nations, and among the several States, and with the Indian tribes;” which necessarily restricts the term, commerce, to that which concerns more than one; and the enumeration of the particular cases to which the power was to be extended, presupposes something to which it does not extend.

Therefore, the right of the States to pass inspection, quarantine, and health laws of every description, has never been surrendered to the Federal Government, nor can the exercise of such a right be questioned upon sound constitutional principles. No general power over these objects having been granted to Congress, consequently they remain subject to State legislation. The quarantine, health, and inspection laws of the States, have very properly, in most cases, been made to operate directly on the subjects of commerce—the ship, the cargo, the crew and passengers, are brought within the operation of these State laws.

On the very same principle by which a State may prevent the introduction of infected persons, or goods, and articles dangerous to the persons and property of its citizens, it may exclude paupers, incendiaries, vicious, dishonest, and corrupt persons, such as may endanger the morals, health, or property of its people. This whole subject is necessarily connected with the internal police of a State, no item of which has, to any extent, been delegated to Congress, and every branch of which has been excepted to the prohibitions on the States, and is of course included in the reserved rights and powers of the States. In the remarks which I have submitted, Mr. President, I should not do justice to myself, or to Judge Baldwin of the Supreme bench, were I not here to acknowledge my indebtedness to that able jurist and sound expositor of constitutional law, for having published his views on the Constitution of the United States, from which work I have derived much

aid in the formation and expression of the opinions which I have presented to the Senate on this occasion. The judicial decisions of Judge Baldwin, it is believed, will go to sustain the doctrines which I have advanced.

It only remains for me to ask that these resolutions, together with the correspondence which I have referred to, may be referred to the Committee on the Judiciary, and be printed.

Mr. WILLIAMS said that he did not rise to oppose any action which might be desired by the State of Georgia upon these resolutions, either by Congress or by that State, but to state some facts as he understood them, in addition to the statement of the Senator from Georgia. As he understood the question between Georgia and Maine, it had no relation to the right of Georgia to make such laws, and to execute them within her own limits, as might appear to that State just and proper, but to the question whether or not the persons charged were fugitives from justice. As he understood the facts, the persons sought to be delivered up to Georgia, were the master and mate of a coasting vessel belonging to Maine, who had, in the usual course of their business, delivered a cargo at Savannah, and received a return cargo, and, in the usual course of business, left that port on their return to Maine; that, after being one or two days on their voyage homeward, a noise was heard in the forward part of the vessel, and, upon examination, the slave in question was discovered, and the captain pursued his voyage homeward, and upon his arrival at Thomaston, in Maine, where the vessel belonged, he was met by the owner, or agents of the owner of the slave, who, without warrant or other process, took the slave into custody, and returned him to the owner in Georgia.

Under such circumstances, the demand upon the Governor of Maine was made and repeated, for the delivery of Philbrook and Killoran as fugitives from justice. The Governor of Maine, not deeming them, under the peculiar circumstances of the case, to be fugitives from justice according to the true construction of the constitution and laws upon that subject, had declined to deliver up those persons to be transported to Georgia upon the demand of the Governor of that State. While the Governor of Maine had duties to perform to sister States, he had also duties to perform to the citizens of his own State; and it should be known that the persons charged were men of small means, and illy able to bear the expenses and sacrifices incident to their removal to Georgia, and carrying with them, as witnesses, all the crew of the vessel in which the slave was found, which would be indispensable to establish their innocence and obtain an acquittal upon their trial. It was under such circumstances that the Governor of Maine had declined to deliver up the persons demanded by the Governor of Georgia; and can it be said that, in so doing, he has disregarded his official duty? If, however, further legislation upon this delicate subject can have

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a tendency to define and render the duties of the Governors of the several States more clear and certain than they now are, he could have no objection to its being done; and hence he had no objection to the reference of the resolutions as asked by the Senator from Georgia.

After some very eloquent and animated remarks of Mr. OUTBEE, and Mr. LUMPKIN, in reply,

The motion of Mr. L. to refer the resolutions to the Committee on the Judiciary, and to print, was agreed to.

FRIDAY, March 18.

*British Liberation of American Slaves while passing from one U. S. port to another.*

The following resolutions, submitted by Mr. CALHOUN on the 4th instant, were taken up:

*Resolved*, That a ship or vessel on the high seas, in time of peace, engaged in a lawful voyage, is, according to the laws of nations, under the exclusive jurisdiction of the State to which her flag belongs, as much so as if constituting a part of its own domain.

*Resolved*, That if such ship or vessel should be forced, by stress of weather or other unavoidable cause, into the port of a friendly power, she would, under the same laws, lose none of the rights appertaining to her on the high seas, but, on the contrary, she and her cargo, and persons on board, with their property, and all the rights belonging to their personal relations, as established by the laws of the State to which they belong, would be under the protection which the laws of nations extend to the unfortunate under such circumstances.

*Resolved*, That the brig Enterprise, which was forced unavoidably by stress of weather into Port Hamilton, Bermuda island, while on a lawful voyage on the high seas from one part of the Union to another, comes within the principles embraced in the foregoing resolutions; and that the seizure and detention of the negroes on board by the local authorities of the island, was an act in violation of the laws of nations, and highly unjust to our citizens to whom they belong.

Mr. CALHOUN submitted his views at length on the resolutions, and after some remarks from Messrs. GRUNDY and KING,

On motion by Mr. KING, the resolutions were referred to the Committee on Foreign Affairs.

The Senate then went into the consideration of Executive business; after which

It adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, March 16.

*British and Chinese question—Non-interference of the United States.*

Mr. CUSHING said: I beg leave to put a question to the chairman of the Committee on Foreign Affairs, (Mr. PICKENS,) in regard to a matter concerning which misapprehension exists abroad, and which, though it touches individually myself and a colleague of mine now

absent on a sick bed, (Mr. LAWRENCE,) I should not have troubled the House with, if it were not of great public importance to the welfare and reputation of the United States.

No objection being made, Mr. CUSHING proceeded to say: I proposed a resolution, early in the session, calling on the Executive for information as to our relations with China, which resolution, being afterwards submitted to the Committee on Foreign Affairs, was by them reported to the House, and adopted; and to which the Executive has since responded, in a Message now in the possession of the House. My colleague (Mr. LAWRENCE) also presented a memorial from the citizens of the United States in China, relative to the same matter. These papers are now under consideration in the Committee on Foreign Affairs. Meanwhile, I am somewhat disturbed to learn, through the intelligence brought by the Great Western, that these movements here are construed in England as indicating a disposition on the part of the American Government "to join heart and hand"—as the expression is in a paragraph of an English ministerial journal now before me—"to join heart and hand with the British Government, and endeavor to obtain commercial treaties from the authorities in China." Now, so far as regards myself, I wish to say that this is a great misconception, if it be not a wilful perversion, of what is contemplated here. I have, it is true, thought that the present contingency,—when the Americans at Canton, and they almost or quite alone, have manifested a proper respect for the laws and public rights of the Chinese empire, in honorable contrast with the outrageous misconduct of the English there—and when the Chinese Government, grateful for the upright deportment of the Americans, has manifested the best possible feeling towards them—I have thought that these circumstances afforded a favorable opportunity to endeavor to put the American trade with China on a just and stable footing for the future. But, God forbid that I should entertain the idea of co-operating with the British Government in the purpose—if purpose it have—of upholding the base cupidity and violence, and high-handed infraction of all law, human and divine, which have characterized the operations of the British, individually and collectively, in the seas of China. I disavow all sympathy with those operations. I denounce them most emphatically. And, though it is not competent for me to speak of what has been done or is intended in the Committee on Foreign Affairs relative to this, yet thus much I may say, that, in that committee, and among all its members, I am confident that there is but one spirit—and that is, to guard the interests and to maintain the honor of the United States. It is due to the Executive, also, that I should say that I have no reason to believe or to suspect that the President or his Cabinet entertains any but the most proper views on this subject. At the

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same time, to close the door at once against all misunderstanding, and set the whole matter in a clear light, in order that the Chinese Government need not be misled into supposing that, while the Americans in Canton profess to act good faith, and enjoy the benefits of it, any different purpose is entertained here, I put this question to the chairman of the Committee on Foreign Affairs—whether he himself, or, so far as he knows, the Executive of the United States, has any idea of making common cause with Great Britain in reference to the recent events in China?

Mr. PROKENA, in reply, said that, in reference to himself, it was very far from being the fact that he was disposed to make common cause with England in her designs in China—for the very first moment the subject was referred to the committee, and laid before them, that very point was made by himself, and he objected expressly to our appearing before the world (as might be inferred from the expression in the memorial) as acting in concert with the British Government in regard to this matter. So far as the Executive was concerned, he had no authority for speaking; but he was induced to believe that no such fact of intended concert with Great Britain, as the gentleman directly referred to, existed. He had no intention directly or indirectly to aid in forcing on the Chinese the odious traffic in opium. He (Mr. P.) believed that if we could prevail on China to abandon her policy of non-intercourse with the world—if we could prevail on her to enter into any arrangement that might have for its basis commercial relations which would place us on an equal footing with other powers, it would be all that was necessary. But of this he had little hopes, for it was known that China, from time immemorial, had been opposed to all treaties. Our only object (said Mr. P.) is to place our commerce with China on an equal footing with that of other nations, and to see that no advantage be taken of us.

Surely England does *not* occupy a position at present to command any sympathy or co-operation from us. He would forbear to touch upon those points that are now at issue between us, which may, in the progress of events, become of the deepest importance. It is not our policy to appear to act under her cover and co-operation. We will act upon our separate and independent interests, and our own views of policy.

Mr. OUSHING then said: I thank the House for its indulgence, and the chairman of the Committee on Foreign Affairs, who has answered my question so satisfactorily; and I trust the idea will no longer be entertained in England, if she chooses to persevere in the attempt to coerce the Chinese by force of arms to submit to be poisoned with opium by whole provinces, that she is to receive aid or countenance from the United States in that nefarious enterprise.

WEDNESDAY, March 18.

Mr. PETER D. VROOM, Representative from the State of New Jersey, appeared, was qualified, and took his seat.

IN SENATE.

TUESDAY, March 24.

*Refined Sugar Drawback.*

Mr. BENTON asked the indulgence of the Senate, while he should correct an error into which he had fallen a few days ago in relation to the part which a late Senator of the United States had acted in the year 1828, in regard to the drawback on refined sugar: he spoke of Governor DICKERSON of New Jersey. He had represented that gentleman, when he opened the subject of the sugar and rum drawback a few days ago, as having made the proposition, and carried it through, to raise the drawback on refined sugars exported, from four cents to five cents a pound. On looking over the debate to which that proposition gave rise, which was in the month of December, 1828, he (Mr. B.) found that it was Gen. SMITH, of Maryland, who made the proposition, and that Governor DICKERSON was one of those who opposed it, both by speaking against it and voting against it; arguing that the additional cent would be a bounty on the exportation of the article, and an encouragement to fraud, such as had taken place in the rum and snuff drawbacks. Time and events had proved these opinions were right; and the bill which he (Mr. B.) had brought in to reduce drawbacks was intended, among other things, to correct the erroneous legislation in relation to the sugar drawback, which commenced in the act of 1828, and was so greatly aggravated by the compromise act of 1838.

Mr. B. said it was with some pride that he looked back to his own course at the time this drawback was raised. He was the first Senator that spoke against it, and the only speaker against it on the first day, when he spoke three times. The next day Governor Dickerson and Mr. Tazewell spoke against it; but without being able to arrest the bill, which immediately passed, and now stands as another monument of the evils of hasty legislation. Although the whole subject was new to him, yet, Mr. B. said, the report of the debate shows that he saw the evils of the measure distinctly at that day, and was the first to denounce them; and that every evil came to pass precisely as he argued that it would. His argument was, that this additional one cent per pound on the exportation of refined sugar, would be a bounty upon its exportation, and an addition to its price at home; that the manufacturers then had a monopoly of the home supply of refined sugar in consequence of the duty of twelve cents per pound on foreign refined sugar; that one cent a pound

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on such an article as sugar, where the dealer could increase his business so largely, though small in the detail, was enormous in the aggregate, and must induce the refiners to make enormous exportations, to the injury of the Treasury and of the country;—to the Treasury on account of the great sums it would take from it—and to the country because they would have to pay an additional price equal to the additional drawback. Mr. B. quoted the words of his speech:

“The effect of the bill was to give one cent premium on every pound of sugar, refined and reported. If the refiners could export at present, the additional bounty (for he could look upon it in no other light) of one cent, would cause immense shipments, or great and exorbitant profits be exacted.” “While cut off from the competition of foreigners by a duty of twelve cents per pound on imported refined sugars, the refiner exorbitantly demands a drawback of five cents on the pound. This was a bold attempt at monopoly, and would soon operate as a direct bounty.”

These were his objections to the act twelve years ago. He was answered by General Smith, that “if the bill passed, the whole average amount of the exportations would only be \$1,007;”—“that 100,000 pounds might be exported in a year instead of 84,000.” Mr. Woodbury, the present Secretary of the Treasury, concurred with General Smith in his general views, and stated the drawback that year to be about \$2,000, (which would give about 50,000 pounds for the export,) and supposed that it might rise to the amount supposed by General Smith. These were the opinions at the time; and now for the results. A table received from the Register of the Treasury (Major Smith) in answer to an application to him, shows that the drawback on the export of these refined sugars from 1828, when the drawback was raised, till 1838, when the compromise act was passed, was:

In 1828,	\$2,045	In 1831,	\$68,688
1829,	45,092	1832,	42,840
1830,	84,250		

Such was the enormous and instant increase!

This table shows that the objections to the bill were well taken, and have been justified by the event. The drawback was raised in December, 1828; the next year the amount paid rose from \$2,000 to \$45,000; the year after to \$84,000; and in the four years the amount paid for this drawback was about \$280,000; being upwards of double the amount paid on that head from the foundation of the Government up to the year 1828. The whole amount paid for these drawbacks from 1789 to 1828 was about \$180,000; the fact of more than doubling this amount in four years after 1828, proves that the additional cent on the drawback was, what it had been charged to be, a premium out of the Treasury, and a naked bounty upon exportation. This was the effect under the act of 1828; and bad enough it was;

but then came the compromise act to reduce the duty on raw sugar, with biennial reductions, until it will go down to less than one cent per pound, while the drawback remains at five. The consequence of this new error is another excessive augmentation of the export of refined sugars, and the drawback payable upon them. In 1839, this export had actually arrived at upwards of five millions of pounds per annum, drawing above \$250,000 out of the Treasury in a single year! and this still on the increase; for the great reductions of duty, and the greatest temptations to export, are yet to come; they come in 1841 and 1842, and thereafter until the act of 1838 is amended.

Mr. B. then showed the annual increase of drawback on refined sugar, under the compromise act, to be, after it began to operate in 1835:

For 1835,	\$42,289	For 1838,	\$145,494
1836,	83,768	1839,	251,301
1837,	100,642		

This, he said, was the effect of the act for five years, and the five during which its operation was less beneficial to the exporter than it would be hereafter. Proceeding in the same ratio of increase, in three or four years more, when the sugar duty comes down to 20 per cent. on the value, the fact would be that the whole revenue from sugar would be insufficient to pay the drawback! At present, the drawback is more than twice too much: it is one-fifth too much under the act of 1828; and it is made double too much by the operation of the compromise act. During the last year alone, the two acts together gave the sugar refiners about \$150,000 more than they ought to have received. After 1842, if these acts are not altered, these refiners will receive about five times as much as they would be entitled to under a fair adjustment of the drawback, and, consequently, would increase their exportations until the whole sugar revenue would be absorbed in the payment of their drawback! He (Mr. B.) in his previous opening speech, had supposed that the drawback already absorbed the whole sugar revenue; but that was an error—an error as to time only; for, after 1842, the whole of this revenue might actually be absorbed in that way. The molasses and salt revenue, he had shown, were to be absorbed in the same way, unless prevented by timely legislation.

Mr. B said it had always been considered a dangerous thing to allow a drawback in a case where an article had passed out of the hands of the collector, or had broken bulk, or had changed its form. Both Mr. Tazewell and Mr. Dickerson spoke of this danger in 1828, and instanced the famous case of the snuff drawback in 1798; and Mr. Tazewell showed the sugar drawback to be a remnant of the old excise on sugar in 1794, and again during the late war. By this excise, the sugar refiners paid 4 cents a pound to the Treasury

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on all the sugar refined by them, and if they exported any part which had paid this 4 cents, they drew it back. At the same time, to enable them to pay this excise, and to make a better source of revenue, Congress gave them a monopoly of the home market for refined sugar, by putting a prohibitory duty of 12 cents on the pound on imported refined sugars. This was the origin of the sugar drawback. The excise has long since ceased; but its two children, the monopoly and the drawback, survived; and this drawback was increased one-fifth in 1828, and is now doubled under the act of 1838, and will soon be quadrupled, if that act is not altered.

Mr. B. said his only object this morning was to do justice to a former member of this body, Mr. Dickerson, whom he had placed on the wrong side of a most important question, and to show that that gentleman, and Mr. Tazewell, and he might add himself, (for he was the first among them to oppose the increased drawback of 1828,) were all right in their opposition to that measure, and in their predictions of its effect in stimulating exportations of refined sugar, and keeping up the price at home, and draining large sums unduly from the Treasury.

The Senate then went into Executive session; And afterwards adjourned.

MONDAY, March 30.

*Fishing Bounties and Allowances.*

Mr. BENTON presented some papers in relation to the importation of sugar and molasses, which were ordered to be printed.

Mr. B. offered the following resolution;

*Resolved*, That a Select Committee of three members be appointed to make a legal and documentary report, founded upon laws and documents on the origin and character of the fishing bounties and allowances, and to show the reason and motive for granting the same, with an accurate reference to every law and document quoted and relied upon, and that the said committee be appointed by the CHAIR.

The resolution was considered and adopted, and the CHAIR appointed the following Senators as said committee: Messrs. BENTON, DAVIS, and ANDERSON.

TUESDAY, April 7.

*Death of the Hon. Thaddeus Betts.*

Mr. SMITH, of Connecticut, addressed the Senate as follows:

Mr. PRESIDENT: The melancholy duty devolves upon me to announce to the Senate the death of my colleague, the Hon. THADDEUS BETTS, who departed this life this morning, a few minutes before six o'clock. I visited him yesterday at his lodgings, and though I was strongly impressed with the opinion of the malignancy of his disease, it did not seem to be the opinion of those around him that he was in

any immediate danger. My own indisposition, I trust, will be a sufficient apology for the brevity of my remarks on this melancholy occasion. Mr. BETTS was a man of a high order of intellect, and of varied and extensive acquirements. The confidence of the people of his State in his abilities and worth, was manifested by the many elevated and important public trusts to which their voices called him, and he discharged their various duties with honor to himself, and satisfaction to the public. At the bar, few enjoyed a higher reputation, and the urbanity and courtesy which marked his intercourse with his professional brethren, made him a general favorite. In the relations of friend and citizen, the testimony of all who had the pleasure of his acquaintance, will begiven to the high estimation in which he was held.

And though all his acquaintances mourn his loss, none can feel their bereavement with such intensity as those who looked to him as their protector: the wife has lost in him a kind and devoted husband; the children a fond and affectionate father.

Mr. DAVIS then submitted the following resolutions:

*Resolved, unanimously*, That a committee be appointed to take order for superintending the funeral of the Hon. THADDEUS BETTS, which will take place to-morrow, at half-past 12 o'clock; that the Senate will attend the same, and that notice thereof be given to the House of Representatives.

*Resolved, unanimously*, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of the Hon. THADDEUS BETTS, deceased, late a member thereof, will go into mourning for him one month, by the usual mode of wearing crape on the left arm.

*Resolved, unanimously*, That, as an additional mark of respect for the memory of the Hon. THADDEUS BETTS, the Senate do now adjourn.

The resolutions were unanimously adopted, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, April 7.

*Death of the Hon. Thaddeus Betts.*

A message was received from the Senate by Mr. DICKINS, their Secretary, announcing the death of the Hon. THADDEUS BETTS, late a Senator from Connecticut; which, having been read,

Mr. OSBORNE, of Connecticut, then rose and said:

Mr. SPEAKER: The sudden and unexpected death of my distinguished friend, which has just been announced to the House, has filled my heart with grief so overwhelming, that I can hardly trust myself to pay the usual tribute to his memory. He has been taken from his friends, from society, and from the councils of the nation, in the meridian of his usefulness, and the fulness of his intellect.

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*United States and Great Britain—North-eastern Boundary.*

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I cannot here attempt to sketch the character, or do justice to the eminent talents and manly virtues of my deceased friend. He was distinguished for acuteness of intellect, vigor of understanding, and soundness of judgment, no less than for the nobleness of his soul and the probity of his life.

The deceased was educated in the profession of law, and was early brought in contact with the most eminent men that have ever adorned the bar of New England. It is sufficient to say that he sustained and distinguished himself among such men as Daggett, Sherman, Smith, and Sherwood.

In all the relations of life, his character was marked with honor and integrity. He had filled many important public trusts in his own State, and was at length called to represent her in the higher branch of the National Legislature. Had his life been preserved, he would have become one of its most useful and distinguished members. But Connecticut has again been called to mourn the loss of a distinguished citizen and Senator. Let us bow with submission to the dispensations of Providence.

This is not the place to indulge in private griefs. I will only say, that a wife has lost a husband, children have lost a father, and a wide circle have lost a friend; their only consolation is in the hopes and promises of that religion of which the deceased was, I trust, a sincere professor.

Mr. O. concluded by offering the following resolution :

*Resolved, unanimously.* That this House will attend the funeral of the Hon. THADDEUS BETTS, late a member of the Senate from the State of Connecticut, to-morrow, at half-past 12 o'clock; and as a testimony of respect for the memory of the deceased, will go into mourning, and wear crape for thirty days.

Which was unanimously adopted; when,

On motion of Mr. STORRS, from Connecticut, as a further testimony of respect for the memory of the deceased,

The House adjourned till to-morrow morning, at 12½ o'clock.

THURSDAY, April 9.

*United States and Great Britain—North-eastern Boundary—Question of Peace Relations and Defence.*

The SPEAKER announced that the first business in order was the resolution of the gentleman from New York, Mr. HAND, for the introduction of which the rules had been suspended on Tuesday last; but the action on which had been suspended by the announcement of the death of a member of the other body; which resolution was in the following words :

*Resolved,* That the Secretary of War be requested to communicate to this House what works he considers necessary to be constructed in order to place

the Northern and North-eastern frontier in a proper and permanent state of defence.

Mr. WISE requested Mr. HAND to accept, as a substitute therefor, or, if not as a substitute, as a modification, the following resolution offered by Mr. W. on Monday last :

*Resolved,* That the Secretary of War be, and he is hereby, requested to lay before this House, as soon as practicable, a report of a full and connected system of national defence, embracing steam and other vessels of war, and "floating batteries" for coast and harbor defence; and national foundries, and the internal means auxiliary to these for transportation and other warlike uses by land; and that he be requested to furnish this House with the reports submitted to his Department, at any time, by Major General Edmund P. Gaines, or other person, or persons, of professional experience, of their "plans of defence," if any such have been submitted, with the views of the Secretary of War thereon. And that the Secretary furnish an estimate of the expenses of his own and other plans he may report, distinguishing such parts of plans as ought to be immediately adopted and prosecuted, with the probable cost and time of their prosecution and commencement.

Mr. HAND said he had no particular objection to that resolution, as an addition; but the whole plan might not be prepared, and he wished it so passed as to avoid delay. If it was added as a substantive resolution, the Secretary might send that portion relating to the Northern and North-eastern frontier at once.

Mr. WISE then moved his resolution, by way of amendment, as an additional one; which was understood to be accepted by Mr. HAND as a modification of his.

The question then being on the resolution as modified,

Mr. WISE said that his resolution embraced an entire system of national defence—a system which, it seemed to him, ought to have been entered on long ago. This Government, he would venture to say, in the face of a threatened war, was in the most defenceless condition of any in the world. There was not a power on earth, civilized or barbarous, with a tithe of the physical force which this country could employ, that had not now in active operation more means of defence than we. In fact, our condition was worse than if we had never spent a dollar on our system of fortifications. There was scarcely a fort on our seaboard that was not in a condition to be taken by the enemy, and to be used against ourselves, instead of being a fort for our own defence. He would not now go into the inquiry whose fault it was, from the time that we had the celebrated excitement on the three million appropriation down to this moment, when we stood now in the presence of the British lion himself—he would not now stop to inquire who was to blame for the helpless condition of our country, left, as it was, to the mercy of any foe that possessed maritime power. He would not now stop to comment on the utter, reckless folly of talking of a war with Great Britain about



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a few pine logs in Maine, when our commerce, our national honor, our lives, and every portion of our frontier, were exposed to British aggression and British bayonets.

Mr. HAND said, that on this subject he was no alarmist. He well knew the deep injury that our commercial interests might sustain by an exciting and injudicious debate there. All he desired now was, that the House might be fully informed on this important subject.

Mr. WISE. I am no alarmist. I have no idea that there is to be a war. But I go for the necessity of fortifications upon the most liberal scale for a peace establishment.

Mr. HAND said he had not supposed this resolution would interrupt the regular business of the House by debate. The answers to this and the other calls on the President and Departments, and probably the report of the Military Committee, would soon be in, and then would, he thought, be the time for discussion, and he felt constrained again to move the previous question.

Mr. ADAMS appealed to Mr. HAND to withdraw his motion for the previous question.

Mr. HAND was understood to insist on his call for the previous question.

Mr. ADAMS said he wished to say a word on this subject, because he found that there was among his own constituents, and among that portion of the people of this country who were now, by the act of God, deprived of the services of their immediate Representative, (Mr. LAWRENCE,) much anxiety in relation to it. He concurred perfectly in the opinion last expressed by the gentleman from Virginia, (Mr. WISE.) He thought that there was not the slightest danger at this moment of a war with Great Britain, nor for years to come. He (Mr. A.) said not for years to come, and he hoped this statement would be reported to his constituents, and to those next to his own district—the people of the city of Boston, who were probably as deeply interested in the preservation of peace with Great Britain as any portion of the people of the United States.

Mr. RHETT rose to inquire of the SPEAKER whether the demand for the previous question was or was not withdrawn?

Mr. HAND was understood to say he had not withdrawn it.

Mr. ADAMS regretted, he said, that the gentleman from South Carolina, (Mr. RHETT,) was unwilling to hear that there was no danger of a war with Great Britain. The previous question had been withdrawn, and he hoped he would not again be interrupted.

Mr. RHETT. The gentleman from New York (Mr. HAND) says he has not withdrawn the demand for the previous question.

Mr. HAND said he had not withdrawn it, but would do so on the promise of the gentleman from Massachusetts (Mr. ADAMS) to renew it.

After some confusion, cries to order, &c.,

Mr. ADAMS was understood to say that he would renew it, and spoke in substance as follows:

He stated, for the benefit of his constituents, and of the immediate neighborhood of his constituents, and of the people of the whole country, that he did not apprehend, in the slightest degree, that there was any immediate danger of a war with Great Britain, or for years to come. And he founded this opinion on two things: In the first place, he founded it on the Message of the President of the United States at the commencement of the present session, in which he (Mr. A.) thought there was not a single word of recommendation to the people to prepare themselves for that great and terrific conflict which must ensue whenever we came in conflict with Great Britain. From the day he saw that Message, he concluded in his own mind that there was no danger of a war with Great Britain. And why? Because he was sure that, if the President of the United States himself had the slightest apprehension of danger of an immediate or early collision, it would have been wrong in him not to have recommended very strong and extensive preparations for that event. When, after that Message was delivered, he (Mr. A.) saw weeks upon weeks pass away under an apprehension on the part of the citizens of the United States and of many of the members of this House, that there was danger of war; when he saw the correspondence which had taken place (and which had from time to time been communicated to Congress) between the Secretary of State and the British Minister here—he confessed he had waited to see on what ground it was that the President of the United States had concluded that there was not the slightest danger of a collision with Great Britain at present.

When the last correspondence was communicated to the Senate—and when a gentleman, the chairman of the Committee on Foreign Affairs in this House, (Mr. PROCKERS,) sounded the alarm—an alarm which had pervaded the whole country—he (Mr. A.) felt a certain degree of concern and apprehension himself, not then having seen the correspondence. But the very next morning he saw it; and, in the last letter from the Secretary of State to the British Minister, he saw the grounds upon which the President had come to such a conclusion, and very safely come to it. That correspondence, as all must have observed, had been of an irritating character. There was anger, passion, feeling, upon both sides; and the community and many members of Congress, seeing these expressions of irritation, probably came to the conclusion, unnecessarily as he thought, that there was danger of an immediate collision.

He, as soon as he saw the last letter of the Secretary of State, became satisfied that there was no such danger; for, in the very heat and tempest of the passion, the Secretary of State broke off, and said that, from the day on which the President of the United States entered upon the duties of his station, he had determined that, in the event of the two parties not being able to come to an understanding by means of

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their negotiations, he would propose a reference of the great question at issue, for a second time, to a third party. To this the very natural reply of the British Minister was, that this was a new proposition, which he could only communicate to his Government, as he would immediately do. And that was the position in which the matter now stood. One of two things must be: either there was a proposition already on the part of Great Britain to accept a proposition heretofore made on the part of the Government of the United States—and that, of course, would prevent collision,—or the Government of Great Britain must determine whether it would accept of this proposition for a reference. Now, he said that the Government of Great Britain could not refuse this proposition; and when the question was referred to a third power, we should have no war from that time forward, until, at any rate, the arbitrators had come to a decision, which would take years.

There was one other possibility which might induce collision; which was, that, while these negotiations were going on, the British Government might continue to encroach on the territory of the United States as they were doing, and had been doing ever since this matter had approached to the appearance of hostility between the two countries. This was possible—nay, probable. On the other hand, we had, on the part of the people of Maine, manifestations of a spirit not to submit, for any great length of time, to these continual encroachments—partially denied—partially, so to speak, prevaricated away in the correspondence between the British Minister and the Secretary of State; but still going on in the disputed territory, in which the British authorities might continue to advance until they had all they claimed, and probably a great deal more. It remained for the people of Maine to decide whether they would submit to it or not. He believed they would submit to these encroachments, and that there would be no act on the part of this Government to sustain or support them if they did not submit. He gave warning to the Representatives from Maine and Massachusetts in this House that the people of Maine would submit so long as it pleased the Government of Great Britain to pursue them under this course of negotiation to be resumed by a second reference. He presumed, however, that many of the Representatives of the State of Maine understood the feelings of their people better than he did.

Mr. A. then alluded to the course of the Government of Maine during the last spring—against which, Mr. A. said, he would not at the time consent to the adoption of any proposition which even by imputation could cast censure upon the Governor for his conduct. But, more recently, he (Mr. A.) had seen evidences of an exceedingly cool and tame spirit coming from the State of Maine. He did not mean to say that this was not very proper under the

circumstances of the times; but he had satisfied himself that there was no sort of danger to be apprehended from any act of the people of that State. The Legislature of Maine declared at that time that if the Government of the United States did not take the matter up, they would do justice to themselves. Now they declared that if the British went on encroaching there, and prevaricating here, as they had done and were doing, they would call on the Government of the United States to protect them.

Mr. SMITH, of Maine. What else, sir, did they say—that if the General Government did not protect them, they would protect themselves?

Mr. ADAMS said, all he intended to say was what he did not think any member from Maine would contradict, that, in the event of a second reference to a third power, the people of Maine would not commence a war with Great Britain; if any one did contradict it, let the two statements be put side by side.

Mr. SMITH said it was not his feeling, nor the feeling of the people of Maine, that this question should be again submitted to a reference in the manner, or at all under the terms upon which it was submitted by a former Administration.

Mr. ADAMS said the gentleman was very cautious in his declaration that the people would not submit to another reference. He (Mr. A.) declared they would submit to it, and he said that they ought to submit to it in case the event should come; and one of his chief motives in addressing the House at this time was to say that he approved entirely of this determination on the part of the President of the United States. He thought the Chief Executive of this country was authorized to make such a reference, and he was gratified to find such a determination had been formed; for nothing could be more effectual in preventing that collision which many of them, and he among the number, were so apprehensive of. He believed it was the most pacific and conciliatory course which could have been determined upon; for that reason he approved of it, and it would be approved of by the whole civilized race of mankind. It came precisely to that point in reference to which so many petitions had been brought into this House, and to which he wished the House had paid more attention—that was to say, a general principle which, by the force of public opinion, should compel all Governments in the world to resort to this pacific mode of settling difficulties rather than by a resort to war. The two nations—the British people and the people of the United States—he might say unanimously, for he scarcely believed there was a man but who deprecated a war between the two nations—all deprecated a resort to war. The reference of the question to arbitrators was an honorable mode of proceeding; no nation could refuse to adopt such a course. The British Government, he maintained, must compulsively, whether they

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would or not, accept the proposition; and if not compelled, they would do it from motives of policy; and, therefore, he concluded there was no danger of a war. The only doubt he could entertain would be that the people of Maine, in the impatience and impetuosity which they must naturally feel for their own interests and their own rights, might, by their own indiscretion, commence hostilities. He did not, however, apprehend such an event, nor did he still believe that any member would rise and say that there was danger of war from that source.

MR. SMITH, of Maine, said he had listened with profound attention to the remarks of the venerable gentleman from Massachusetts, touching a question of absorbing interest to the people of Maine, and he confessed his inability to comprehend them. Mr. S. was so unfortunate as to misapprehend the tenor of those remarks, or they embraced propositions wholly inconsistent with each other. The gentleman had said, that, when this question was agitated in the last Congress, and the conduct of the Government of Maine, in calling out the military force of the State to repel the invaders of her soil, was the subject of animadversion, he had been among the foremost to defend the course which Maine had pursued. He had not suffered the slightest reproach to be cast upon her. Maine had done precisely as she should have done under the circumstances. There was a palpable invasion of her territory, and she had acted nobly in repelling it. But the gentleman seems *now* to think that the peace of the country may be preserved, if Maine, by some act of *indiscretion and rashness* does not disturb it. The territory of the State, solemnly and repeatedly declared to be so by the National Government—known to be so by Great Britain herself—was now in the occupation of foreign troops. The soil of Maine, the gentleman from Massachusetts declares, is, at this moment, encroached upon by British troops, and that such encroachment will be continued and persisted in by Great Britain, and quietly submitted to by the United States, unless the people or Government of Maine, by some act of *indiscretion or rashness* intercept our peaceable relations with that country! And the gentleman tells us furthermore, that the proper course to adjust the question, is to propose another reference, which he says Great Britain will not, and cannot refuse, and which it will take years to bring to an issue—and he then tauntingly gives notice to the people of Maine, that although pending this reference, the encroachments of England will be continued, they must and will quietly and peaceably submit to them, and that any resistance on their part will be *rash and indiscreet*, and tend to involve the country in a war!

Mr. S. repelled this idea of passive obedience and non-resistance on the part of Maine. There had been nothing in the course of her Government to justify it. Mr. S. called upon the gentleman from Massachusetts to point out the

"tame spirit" of which he pretended to have seen recent evidence in that State. The resolutions very lately adopted by her Legislature were, in letter and spirit, wholly at variance with tameness or servility. And Mr. S. assured the gentleman from Massachusetts, and the country, that no attachment to party would be suffered to swerve the people of that State from a persevering and determined maintenance of their constitutional and unalienable rights.

But the gentleman from Massachusetts, who came forward so honorably to sustain the military operations of Maine, in the *last* Congress, upon the ground that they were justifiable, seems *now* to think that a similar course on her part would be rash and indiscreet, and that it is her duty to submit to the continued encroachments of England for years to come. Mr. S. was wholly unable to comprehend the distinction between an invasion of Maine last year, and a military occupation the present year. And he assured the gentleman that the people of Maine would not understand it. The same regard for the honor of their State—for the integrity of its territory—for their own character as American citizens—which prompted the people of Maine to resist and repel the invasion of her soil upon a former occasion, still existed. They had the same distinguished gentleman at the head of the Government; and the people of this country might be assured that he would never permit the State over which he presided to be disgraced by foreign encroachments. The gentleman from Massachusetts had spoke in high terms of that functionary. Mr. S. expressed his thanks to the gentleman for the just manner in which he had spoken of the Governor of Maine. As a Representative of the people of that State, and as a personal friend of that distinguished individual, he tendered him his unfeigned thanks.

Mr. S. had the fullest assurance that the rights of Maine were duly regarded by the National Administration. He had never doubted the disposition of the Executive to extend the protection of the nation over the entire territory of that State; and he had unshaken confidence in the patriotism of the people of the whole country to sustain the Government in every measure necessary for the accomplishment of that purpose. He did not agree with the gentleman from Massachusetts in regard to the tone of the correspondence last communicated to Congress between the Secretary of State and the British Minister. He considered the letter of the Secretary, in reply to the British Minister, an able, dignified, and statesman-like paper, and a most triumphant vindication of the rights of Maine, and the action of her Government in regard to the boundary question, and, at the same time, evinced the full determination of the Government of the nation to sustain and defend them. It was such a paper as was to have been expected from the source from which it emanated.

The gentleman from Massachusetts had spo-

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ken of a reference as the proper mode of adjusting and finally settling this vexed question. In regard to that matter, Mr. S. believed he expressed the views of the whole people of Maine, when he stated that they would never consent to a reference in the manner, and under the terms, upon which the question was referred under a former Administration. But Maine had set up no claim to territory, the justice of which she was not willing to submit to the strictest scrutiny. She was willing that the line designated by the treaty of 1783, between her territory and the British provinces, should be run and marked, and finally settled by disinterested and scientific individuals, who should be required to go upon the territory with the treaty, and perform this service. To *such* a reference, Mr. S. believed Maine would not object. Any other, instituted upon terms which would render a just decision less certain, she would most strenuously resist.

Mr. W. THOMPSON said that the information sought in the resolution had been communicated informally to the Committee on Military Affairs, and that it was now before that committee for the purpose of being acted upon. He was understood to say that he thought the best plan would be to have the matter referred to the committee, that they might report upon it, and that the whole might be printed. Still, however, he would not raise any special objection to the adoption of the resolution.

Mr. T. then proceeded to make some remarks on the question to which the resolution looked. He thought there was no reason for this haste. He would say that the conduct of the General Government in regard to Maine met his entire approval. He was rejoiced to hear the remarks of the distinguished gentleman from Massachusetts, (Mr. ADAMS;) speaking out as all would have expected him to do, not only with the spirit and manliness of an American patriot, but with the wisdom of an American statesman. He (Mr. T.) had not recently believed there was any danger of war, though he did believe so at the last session of Congress. He believed that in the condition in which the matter now stood, war was impossible. Great Britain must accede to the proposition as made; if not, she would accede to it with certain modifications. He would say here, that whilst it was the duty of this Government to speak the language of kindness and protection to Maine, it was its duty also to speak the language of firmness, nay somewhat of sternness, to the authorities of Maine. He knew how deeply exciting a matter a contest for territory was; but whilst Maine was given to understand that we intended to protect her rights and give her the land (as to her right to which he had no earthly doubt) or an equivalent for it—still he wished her to understand that, if a war came, it was our war. We took the matter out of her hands, and if we were to have a war, it was but right that we should have the negotiation too. It was too absurd to think of the State of Maine talk-

ing of fighting Great Britain. He repeated, as the war would be ours, if there was any, let us also have the negotiation.

Mr. T. was not disposed to act upon the matter of fortifications now, at all events. If there was to be a war, or a reasonable chance of a war—if there was one chance in one thousand that would justify putting the country in a condition to meet it, we could not arm too speedily or too closely. If not, we could not spend too little in that way, for we had too little to spend. And if, when advices had been received from England, they should not be altogether pacific, and such as would justify the confident anticipation of peace, he was then ready to arm the country, not so much on the point of danger as of national honor. He was not willing to treat with Great Britain while British bayonets and British fortifications were scattered along the whole line of our coast; he desired to treat with arms in his hands. But he was not disposed to accelerate that state of things, or to create additional fever temper in relation to this question. Six months would put us in a condition to resist any aggression; nay, he believed, we might resist it without any fortifications at all. We had, thank God, the same means which enabled General Jackson to meet the enemy on the plains of Louisiana. We had the same means of protection—the same stout hearts and strong hands in the freemen of this country.

Mr. T. repelled the idea of invasion of the American soil, and insisted that we had already fortifications which, for a very little money, and in a few weeks, would put the country in a condition successfully to resist attack. This led to some cross-questioning between Mr. T. and Mr. WISE, as to the state of the fortifications of the country.

After which, Mr. HAND moved the previous question.

And there was a second.

And the main question was ordered to be now taken; and, being taken, was decided in the affirmative.

So the resolution, as modified, was adopted.

#### IN SENATE.

TUESDAY, April 14.

#### *North-eastern Boundary.*

Mr. BUCHANAN, from the Committee on Foreign Relations, made the following report:

The Committee on Foreign Relations, to which was referred the several Messages of the President of the United States, communicating to Congress, at its present session, certain official correspondence in relation to the question of the territory in dispute with Great Britain on our North-eastern frontier; and also certain resolutions of the Legislature of Maine on the same subject,

#### REPORT:

That they have had the same under consideration, and now deem it expedient to communicate to the

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Senate their reasons for not making, at the present moment, a general report upon the whole subject. They feel that they will best perform this duty, by placing clearly and distinctly before the Senate the existing state and condition of the pending negotiation between the two Governments.

The President of the United States, in his annual Message of December last, informed Congress that, "for the settlement of our North-eastern boundary, the proposition promised by Great Britain for a commission of exploration and survey, has been received, and a counter project, including also a provision for the certain and final adjustment of the limits in dispute, is now before the British Government for its consideration." The President has not thought it advisable to communicate this counter project to Congress; yet we have his assurance, on which the most confident reliance may be placed, that it is of such a character as will, should it be accepted, finally settle the question. This proposition was officially communicated to that Government during the last summer.

Mr. Fox, the British Minister, in his note of the 24th January last, doubtless with a perfect knowledge of the nature of the project which had been submitted by the American Government to that of Great Britain, assures Mr. Forsyth, "that he not only preserves the hope, but he entertains the firm belief, that if the duty of negotiating the boundary question be left in the hands of the two National Governments, to whom alone of right it belongs, the difficulty of conducting the negotiation to an amicable issue will not be found so great as has been by many persons apprehended." And in his subsequent note of March 13, 1840, he states that he has been instructed to declare, "that her Majesty's Government are only waiting for the detailed report of the British commissioners recently employed to survey the disputed territory, which report, it was believed, would be completed and delivered to her Majesty's Government by the end of the present month, (March,) in order to transmit to the Government of the United States a reply to their last proposal upon the subject of the boundary negotiation." Thus we may reasonably expect that this reply will be received by the President during the present month, (of April,) or early in May.

Whilst such is the condition of the principal negotiation, the committee have deemed it inexpedient, at this time, to report upon the subordinate though important questions in relation to the temporary occupation of the disputed territory. They trust that the answer of the British Government may be of such a character as to render a report upon this latter subject unnecessary. In any event, they have every reason to believe that the state of suspense will be but of brief duration.

The committee, ever since this embarrassing and exciting question has been first presented for their consideration, have been anxious that the Government of the United States should constantly preserve itself in the right; and hitherto this desire has been fully accomplished. The territorial rights of Maine have been uniformly asserted, and a firm determination to maintain them has been invariably evinced; though this has been done in an amicable spirit. So far as the committee can exercise any influence over the subject, they are resolved, that if war should be the result, which they confidently hope may not be the case, this war shall be rendered inevitable, by the conduct of the British Government. They have be-

lieved this to be the surest mode of uniting every American heart and every American arm in defence of the just rights of the country.

It is but justice to remark, that the Executive branch of the Government has, from the beginning, been uniformly guided by the same spirit, and has thus far pursued a firm, consistent, and prudent course, throughout the whole negotiation, with Great Britain.

Whilst the committee can perceive no adequate cause, at the present moment, for anticipating hostilities between the two countries, they would not be understood as expressing the opinion that this country should not be prepared to meet any emergency. The question of peace or war may, in a great degree, depend upon the answer of the British Government now speedily expected.

Mr. WRIGHT called for the reading of the report, and it was read accordingly; after which

Mr. W. observed that in calling for the reading of the report, his only object was to hear the views of the committee, and to give himself an opportunity to move for the printing of an extra number of copies. He would make that motion for the reason, that within the last few weeks, he believed he might say, within the last two weeks, his correspondents, a great many of whom were on the frontiers, seemed to entertain alarming apprehensions of immediate hostilities between this country and England. From what cause he knew not. He had seen nothing himself to authorize such apprehensions, and he was gratified to find that the Committee on Foreign Relations entertained the same opinion.

Mr. W. then moved for the printing of ten thousand extra copies of the report.

Mr. BUCHANAN observed that the committee had no intention of moving the printing of an extra number of copies of this report, though certainly, as a member of it, he should not oppose the motion. The report was very short, and from the interest generally taken in the subject, it might, and probably would, be copied into all the country papers. He did not believe that it would occupy more than one column in the ordinary sized newspapers, and therefore there was little doubt but it would be extensively circulated. Still, if the Senator from New York (Mr. WRIGHT) wished an extra number printed, he should not oppose it. He had only made these suggestions for the information of the gentleman himself, and would be content with any decision that might be made.

Mr. CLAY, of Kentucky, concurred entirely in what had been said by the chairman of the committee, and thought the Senator from New York would hardly deem it necessary to go to the expense of printing ten thousand copies of a document, which, as the chairman said, was so short that it could be copied into all the papers of the country. He thought that it would at once take a general circulation, without being sent out in pamphlet form; and he hoped that if the Senator insisted on the print-

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ing, that he would modify his motion so as to print a smaller number.

Mr. CLAY, of Alabama, recollected that we had had the correspondence between the Secretary of State and the British Minister, on several occasions communicated to the Senate during the present session, and on each occasion ten thousand copies were printed. At all events, this was a subject of exciting interest from one end of the Union to the other. If the document was so very small, as alleged by the chairman, it would cost the Government very little to print the extra number of copies.

Mr. WRIGHT observed that his residence was on the frontier, where the people felt a great anxiety on the subject. There was no doubt that the military preparations on the British frontiers had been very briskly carried on during the winter and spring; but his own belief was that these preparations related entirely to the internal condition of the provinces, which furnished sufficient grounds for them. In addition to the late disturbances there, it was known that the British Government was about to attempt a most important change in the government of their colonies on our borders, and this might reasonably be supposed to furnish another reason for the military preparations they have been making. But with the excitement existing on our frontiers, every change on the part of our neighbors was watched by our citizens with an intense interest, which we here at a distance cannot feel, and it was with a desire to allay this excitement that he wished the report to be sent out. He would not persist in the motion if it should be against the pleasure of the Senate, and he was willing to modify it so as to meet the views of all. But he would, at the same time, observe that, if there had been a document which the public would be more anxious to see than any other—if there was one which would be likely to allay the excitement existing on the subject, it was this. He knew that it was very short, and that the cost of printing could not be very great; he knew, too, that notwithstanding the immense circulation of the newspapers of the country, there were many, very many, whom these newspapers did not reach, and that the circulation of a document of this kind, coming immediately from the Senate, would have effect in allaying the apprehensions of our citizens, which a circulation through the newspapers would not.

Mr. CLAY, of Alabama, rose to say, on the information of the Secretary, that ten thousand copies of all the documents that had been communicated on this subject, during the present session, had been printed.

Mr. RUEGLES said he did not rise to object to the printing of the extra number proposed, nor indeed to advocate the printing of so large a number. It was a very short report, and would be read in the newspapers by every citizen of Maine, and perhaps by every citizen of the country, long before the extra number

would be likely to be furnished to the Senate. He had no wish to increase our expenditures for printing, yet he should not oppose any extra number gentlemen thought proper to recommend.

He said he certainly felt less anxiety for printing a large number, from the belief he entertained that the report might have the effect of disappointing many citizens of the State he, in part, represented, in affording them some possible apprehension that the spirit manifested in the late correspondence between the two Governments, is felt less strongly now than at the time that correspondence took place. He was well aware that there was a portion of the people whose minds were fully prepared for the most prompt and energetic measures. Another portion doubtless contemplated a resort to war with serious apprehension. It was not to be questioned that the expectations, if not the hopes, of the former class, would be repressed and disappointed; and that the latter would as certainly derive encouragement to their desire for the long continuance of peace. He observed that Maine felt strongly and deeply on this subject. She had entertained hopes that this controversy was now about to be brought to a close. She is expecting strong, decisive, and energetic action on the part of this Government. He did not mean to be understood as intimating that the tone and spirit of the report of the committee afforded any sufficient evidence that she would be disappointed in the character of the measures she has been anticipating. Nevertheless, the report, he believed, would by many be looked upon as a *peace document*, and as calculated to relieve the country from all apprehension of a rupture with Great Britain, at least for some time to come. The honorable Senator from New York (Mr. WRIGHT) appears to have so understood its purport and effect, and assigned that as a reason for wishing a large number of the report printed. He would say again, that he should not oppose the printing of any number gentlemen wished; but it would be recollected that the Senate had ordered the printing of ten thousand extra copies of a correspondence on this subject, early in March, which were not furnished to the Senate for several weeks afterwards; and not till after the recent correspondence on the same subject, was communicated to the Senate. Should there be as much delay on this occasion, the extra copies would be of but little use to the Senate or to the public.

Mr. BUCHANAN observed, that the remarks of the Senator from Maine (Mr. RUEGLES) seemed to render it necessary that he should say a very few words on the subject before the Senate. Those who had attended to the reading of the report, would perceive that, throughout, it was intended for the sole purpose of presenting to the Senate the reasons why the committee did not think it necessary, at this time, to make a detailed report on the whole correspondence. That was the single object of the

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report. If it should become necessary to make a report in regard to the temporary occupation of the disputed territory, the committee would not shrink from their duty. They were prepared to perform it to the Senate and to the country. But at this moment, when we have the solemn assurance of the British Minister that in a very short time we should have an answer from his Government to the counter project presented by our Government; and when he not only expresses the hope, but "entertains the firm belief," that the "difficulty of conducting the negotiation to an amicable issue will not be found so great as has been by many persons apprehended," it is wonderful that the Senator from Maine should denounce this report, made under such circumstances, in such strong language. The report, Mr. B. continued, reasserted the rights of Maine in the most solemn manner; and it was extraordinary that any citizen of Maine should expect a detailed report, or one different from that which had been made, unless, indeed, he could believe that the committee ought to have assumed a hostile position, and gone into all the correspondence that had taken place, and into the subject of the preparations that had been made by the British Government, in the very face of the assurance that we should have an answer to our proposition in the course of this month or the next; which, judging from the language of the British Minister, we had reason to believe would prove satisfactory. The committee thought it was their duty to place before the Senate the precise state of the negotiation between the two countries; and what that was might be summed up in twenty words. A proposition for an exploration and survey of the disputed territory had been made by the British Government; and this Government not deeming it satisfactory, because it did not embrace a provision for the final settlement of the question, had sent to the British Government a counter project, to which no answer has yet been received. This counter project was communicated to the British Government during the last summer, and the British Minister here, several months afterwards, with a perfect knowledge of its character, assures us that a speedy answer will be given to it, and expresses his confident belief that if this controversy is left to the two national Governments, it does not present the difficulties which had been by many persons apprehended. He also declares that the commissioners who had been sent out from England to make a survey of the disputed territory, were preparing their report—that this report would be ready within the month of March—and that then his Government would transmit an answer to the proposition we had submitted to them. Now in this state of the case, unless you suppose the British Government to be entirely faithless, which he had no reason to believe, we may reasonably expect, in this or the coming month, to receive an answer that may enable us to settle this

question in conformity with the stipulations of the treaty of 1783, and in accordance with the just rights of Maine. Under such circumstances, how could it be expected that the committee would make a belligerent report? Mr. B. differed with the Senator from Maine in the opinion, that the people of his State either would or could so construe this report, as to imagine that the committee or the Senate were prepared to surrender any portion of their rights. The past conduct of this body should shield them from such a suspicion, and their future conduct, should it become necessary, would show that they were as ready now as they have been in former times, to sustain the honor of the nation as well as the rights of a sovereign member of the Confederacy. From the correspondence which had taken place between the two Governments, the committee hoped that this might never become necessary. Sufficient for the day was the evil thereof; and the committee thought the subject was already sufficiently embarrassing in itself, without unnecessarily adding to it other causes of irritation.

Mr. ALLEN wished to ask of the Senator from Maine one or two questions. He wished to know if the gentleman expected the committee to report to the Senate an opinion in favor of war, or what kind of report he expected from the committee in the present state of the negotiations between the two countries. When the gentleman should state what kind of a report he expected the committee to make, he would then thank him to state what kind of a report he himself would make, and then the people might judge of the correctness of his views on this subject. Whilst up, Mr. A. said he would make one or two additional remarks. The only question which the Committee on Foreign Relations had to decide, (and he believed that since he had been here he had given as much evidence of a devotion to the interest of the State of Maine, as any other Senator,) the only question before the committee was, not whether they would recommend measures leading to war, but whether they would recommend any thing at all—whether they should not remain silent till the expected answer to our proposition to the British Government should be received. That was the only question before the committee. Under these circumstances the committee concluded, after full reflection, that it would be better, in order to avoid any misunderstanding in the country—in order to avoid the people putting any false construction on the late correspondence, to make a report to explain not what was the course it was our duty to pursue at the present moment, but the reasons why we should suspend any action till the British Government should return an answer to the counter project we had made to them. The committee made this report in pursuance of that opinion, to explain why they did not, at this time, go into a thorough investigation of the subject, and propose some defi-

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nite action in regard to it; and the reasons which governed them were, that the British Minister here had declared that he would very soon be able to present to this Government an answer to the proposition which had been submitted to his. Mr. A. deemed it proper to make these few remarks, because the State from which he came, ever patriotic, had passed resolutions in relation to this subject, and he knew that the people of that State would stand ready, to the last man, and to the last dollar of their resources, to see that the rights of the whole country were maintained at all hazards. He would now ask the Senator from Maine to state what kind of a report this committee ought, in his opinion, to have made—what kind of proposition ought to have been submitted to the nation in the present state of the negotiations between the two countries.

Mr. RUEGLES said he had been referred to as denouncing the report of the committee. He had not intended to be so understood. He had spoken of the impression he believed it would make on different classes in the community. He had expressed the opinion that those who were looking for prompt and energetic measures—who were, in fact, looking with impatience for an immediate rupture between the two countries, would have these hopes repressed; and that others, who felt alarmed at the tone of the correspondence lately communicated to the Senate, would be relieved from their apprehensions; and he repeated that the Senator from New York who had just taken his seat, appeared to entertain the same opinion of the effect the report was calculated to have on the people of the frontier of that State, who were excited with the prospect of an immediate declaration of war.

In answer to the question put to him by the Senator from Ohio, (Mr. ALLEN,) whether he would have the committee make a report in favor of an immediate declaration of war, he would say that he had no such wish, nor had he intimated any such desire. In answer to the Senator's further inquiry, what sort of a report he would have the committee make, he would not undertake to dictate to the intelligent and patriotic Committee on Foreign Relations, what sort of a report they should make on this or any other subject. He would not undertake to say that they ought to make any other report than they had made, if they were to make any report at all at this time. He believed that nothing new had transpired to render any report necessary at this particular time. The report communicated no new facts. The Senate well knew, and the country well knew, that the President had caused to be made to the British Government a counter proposition, and that we were expecting a response to that proposition in all this month, or early in the next. This information had been communicated by the President, and was contained in the last correspondence, which was before the country. He understood that the

further consideration of the Maine question was postponed till that response should be received. A report from the Committee on Foreign Relations had not been looked for till it should appear whether we have, at the time indicated, the promised reply of the British Government. He had acquiesced in that, and had expressed no wish for a report at this time, in favor of ultra measures. So far from that, he said he did not believe, nor had he at any time believed, that war with Great Britain would necessarily grow out of this controversy. He founded his opinion partly on the fact, that on her part she had no cause for war. Her claim to the disputed territory was wholly without foundation, and would not afford her the slightest justification for pursuing it to that extremity. She would not dare go to war with this country, without some better cause for it. She had too much respect for the opinion of mankind to enter into such a contest with us, without some better pretence than the groundless claim she has set up.

But, sir, said Mr. R., can Great Britain be greatly blamed for pushing her claims, as baseless as they are, whilst she has heretofore seen so little to create a belief that this Government would resist them to the last extremity? He remembered to have urged at the last, and at previous sessions, the fortification of some exposed points on the maritime frontier of Maine. He proposed it as an amendment to an appropriation bill then before the Senate, and had the *silent* vote, in support of it, of the chairman on Military Affairs; but it was voted down by a large majority. He had not forgotten it; and could not forget the exposed condition of the whole country. His opinion that war would not ensue, was necessarily subject to the condition, that preparation should be immediately made to meet any possible contingency.

We could never expect a submission to our rights till we give substantial indications of a determination to vindicate them. We must prepare for war to avoid war. Sir, said Mr. R., without finding any fault with the report, he would say that he had much rather have seen a report from the Committee on Military Affairs, and another from the Committee on Naval Affairs, affording on the part of this Government an earnest of its determination to vindicate the rights of Maine and the honor of the nation.

Mr. CLAY, of Kentucky, begged leave to say a few words on the subject, not so much in reference to the particular question of printing the report, as on the general and more important one involving the relations between this country and Great Britain. He was happy to hear the Senator from Maine (Mr. RUEGLES) say he was not for war, though he did remark when he first rose that this report would be unsatisfactory to a portion of the people of his State who were for war. He would say that if there was any party in this country for war



with Great Britain, it was a criminal party. There was no sufficient cause for war; and he took occasion to say, that so far as he was informed, the opinions both of the Administration party, and of the party with which he acted, were that war was to be avoided so long as it could be done without compromising the rights and honor of the nation. The Senate had solemnly expressed the opinion that the question of right was with us, and all parties, every individual of those parties, so far as their views had been expressed, seemed determined to obtain for Maine, by some of those modes by which national rights are asserted, a full and absolute possession of all the territory within her rightful limits. But he must say that there were two modes of arriving at this result. One was by negotiation, and the other was by war; and these questions were to be decided by the united voice of the whole country, and by the Executive branch of the Government, as the case may be, and not to be decided by the voice of one single member of the Confederacy. If the honor of the country is assailed, the councils of the whole country must determine as to the manner and time of vindicating it. He would take occasion to say for the benefit of the Senator from Maine, and the whole people of Maine, that whilst he believed them to be as valorous and as enlightened as any people in the Union, he was not inclined to confide in their judgment as to declaring war, and the period at which this last resort may become necessary. If Maine expects the Government of this country to secure her rights, she must confide to the Government of this country the whole agency in settling the controversy. If it is to be done by negotiation, it must be left to the Executive and his constitutional advisers. If it is to be by war, it should be left to that department of the Government to which the power of declaring war is confided by the constitution. In saying all this, he meant nothing in condemnation of the state of feeling that had been evinced by the people of Maine. Justice was with her, and he sympathized with her natural feelings on this subject. Her claims had unfortunately too long been delayed; but, notwithstanding that, he said that this Government alone should conduct the negotiation, and if war became necessary, decide upon the time and manner of commencing it. He could not, however, believe that this last resort would be necessary. There were two securities which we had for the continuance of peace. The first security was that Great Britain, enlightened as her councils were, must perceive, what we know, that the right was with us; that she had no claim; and after being satisfied with these facts, upon an examination of the necessary information, will ultimately concede the right to us. But let me suppose, continued Mr. C., that she does not. Let me suppose that, after investigation, she comes to the clear conviction to which we have arrived, that the right is

with her; that the territory in dispute, according to the treaty of 1788, is within her limits. What, then, will be the case presented before the world? Two enlightened nations coming to different conclusions on the same testimony, and unable to agree. What, then, are to be the consequences? Is war, that calamity which every lover of humanity must deprecate, the only alternative? No, sir. There is another: there is a subsisting treaty stipulation contained in the treaty of Ghent, by which this question is to be left to the decision of an impartial tribunal, in the event that the two countries cannot settle it themselves. I say there is a treaty stipulation still subsisting; and how do I make it out? It may be alleged that the matter having been once committed to the umpirage of a third party, and that party having given an award, the stipulation in the treaty was fulfilled, and it was no longer in force. Not so. There was an attempt at arbitration, through the instrumentality of the King of Holland; but it was an abortion—a failure—the King did not settle the question; both parties acknowledged that he did not, and the treaty remains in full force, binding the parties to refer this question, if unable to settle it amicably themselves, to an impartial tribunal. But, putting the treaty out of the question, suppose there was no such stipulation, and that the two parties having brought their minds to the conclusion that the right was with each, were determined to persist on it. Sooner than resort to war, with all its calamities, both parties should agree to arbitration; and I say that England, if she will not concede the right to us, must yield the point at issue to arbitration. Though this course may be attended with delay—though Maine may not arrive at the possession of her territory as soon as she wishes, yet she had infinitely better wait the movements of two great nations, than that they should be involved in war. When we come to deciding on the question of war, all other means of settling the controversy having failed, that question is to be decided by the united wisdom of all, in reference to the condition of the whole country, in reference to the other interests of Maine besides the interest in question, and in reference to the probable issue of the controversy.

In relation to the military preparations of the British in the Canadas, of which the Senator spoke, Mr. C. said they gave him no cause for alarm. England was the weaker power—she was preparing against invasion from us; but did we apprehend invasion from the Canadas? He did not agree with the Senator that our state of preparation was so defective; for, with the exception of one or two points on the Atlantic, where some additional defence was wanted, no preparation was necessary. When gentlemen talked of our want of preparation, he did not agree with them. What! with fifteen or sixteen millions of free people, with their unquestioned valor, their love of country,

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combined with their means of transportation, and their warlike resources, to say that the country is unprepared! We are, said Mr. C., ten thousand times better prepared for war to-morrow with Great Britain—though not so much so, in all respects, as he could wish—we are infinitely better prepared than we were at a former period—on the ocean, as on the land, on the lakes as well as the bays; and then we came out of the contest with honor. The construction of the great New York canal, our railroads, our population pressing up against the boundary line—all these are advantages which we did not possess in the last war. No preparation! Sir, we have the best preparations that ever a country boasted of: we have sixteen millions of freemen, with stout arms and bold hearts, who stand ready to vindicate the rights of their country. As to the preparations of England in the Canadas, let her go on with them—let her bring her troops over, whether to quell insurrections among her own people or to guard against invasion from our side of the line—that would never, for a moment, give him the slightest uneasiness. Whenever the honor of the country, by an injury inflicted on a single member of it, may require us to resort to a war, though the beginning of it may be attended with a few disasters, he had no apprehension but, after a few months, we may be able to impress on England the temerity of forcing us into this alternative.

He entirely concurred with the report. He believed that it was the sincere desire of the Administration party to preserve the peace of the country, and it had been a matter of serious inquiry with him to ascertain their views. If there was a criminal party in this country, who, for their own sinister views, desired a war, he did not believe that the Administration party gave them the slightest countenance. This he must say as an act of justice. The committee were unanimous in adopting this report. What did it tell you? Why, that the negotiations were going on, and were in the hands of those constitutionally intrusted with it; and that within a reasonable period, we might expect an answer to our last proposition, till when it did not become us to take any further action on the subject. Mr. C., after alluding to the various causes which might reasonably be supposed to delay the action of the British Ministry, concluded by saying that his only object in rising, was to defend the report, and not to say any thing on the question of printing. He did not think the printing of the extra copies necessary, as the report would be circulated through the newspapers.

Mr. RUGGLES rose but to say a word in explanation. The honorable Senator from Kentucky (Mr. CLAY) had expressed satisfaction that he (Mr. R.) had said he was not for war. He could not let the remark pass without a little qualification. He was for peace, if peace could be preserved consistently with the rights and honor of the country. If not, then he was

ready for the alternative. He did not mean to discuss, at this time, the right of this Government to refer the question to an arbitrator without the assent of Maine, and against her protestation; but he would remind the Senator that Maine had, over and over again, by her Legislature, declared her opinion that the Federal Government had not the constitutional power, and ought not to jeopard her rights by a submission of them to arbitrators without her assent. That opinion had been so strongly entertained by Maine, that he felt, in some sort, instructed upon that point, and could not yield it. But he saw no occasion for discussing that question now. He referred to writers on the laws of nations, who maintain fully that no nation could be called upon to submit to the umpirage of others, a clear and indubitable right, which she was justified in claiming as such. But he would not pursue the subject.

Mr. CLAY, of Kentucky, in reply, said, that he did not express the opinion that this Government had claimed the right to refer this question to arbitration; but he expressed, as *his* unqualified opinion, that this Government had the undoubted right to refer the question to arbitration, without consulting Maine.

The motion to print ten thousand extra copies of the report was agreed to.

WEDNESDAY, April 15.

*British Liberation of American Slaves.*

The resolutions submitted on the 4th of March by Mr. CALHOUN, as amended by the Committee on Foreign Relations, were taken up, and were read, as follows:

*Resolved*, That a ship or a vessel on the high seas, in time of peace, engaged in a lawful voyage, is, according to the laws of nations, under the exclusive jurisdiction of the State to which her flag belongs, as much so as if constituting a part of its own domain.

*Resolved*, That if such ship or vessel should be forced by stress of weather, or other unavoidable cause, into the port, and under the jurisdiction of a friendly power, she and her cargo, and persons on board, with their property, and all the rights belonging to their personal relations, as established by the laws of the State to which they belong, would be placed under the protection which the laws of nations extend to the unfortunate under such circumstances.

*Resolved*, That the brig Enterprise, which was forced unavoidably by stress of weather into Port Hamilton, Bermuda island, while on a lawful voyage on the high seas from one port of the Union to another, comes within the principles embraced in the foregoing resolutions; and that the seizure and detention of the negroes on board by the local authority of the island, was an act in violation of the laws of nations, and highly unjust to our own citizens to whom they belong.

Mr. CLAY said that, with respect to the general principles contained in the resolutions, as that the flag should protect its vessels on the

high seas, there could be no doubt. It was the common highway of nations, and vessels under their flags were, to all intents and purposes, protected by them. On the high seas no nation had exclusive jurisdiction.

As the resolutions were amended by the committee, they were undoubtedly correct; but, as originally drafted, he had some doubts of the principles set forth. He could not think that in the port of a foreign power, when the flag was consequently under a particular jurisdiction, that its protection was as great and unrestricted as when the vessel was at sea.

He had risen, however, not to discuss the principles contained in these resolutions, but rather to inquire what good could result, what benefit was proposed, by their introduction at the present time. As he was called upon merely to express an affirmative opinion, he should vote for the resolutions as amended; but the question was whether it was a subject upon which the Senate should be called to act. What was the use to be made of the question? If a negotiation were pending, it might exercise some influence; but in the present case, where that was precluded in language so strong by Lord Palmerston as to forbid the expectation of a resumption of the negotiation, he saw no utility in the adoption of the resolutions.

He thought a too frequent use of the expressions of opinions on subjects merely abstract, by a body of such high and grave authority as the Senate, would have a tendency to bring our opinions into disrepute.

Mr. CALHOUN said that it was not his impression that there was much difference between the resolutions, as they originally stood, and as now amended. The chairman had showed him the amendments, before they had been acted on by the committee, and he had, without hesitation, assented to them; not because he thought them an improvement, but simply because he understood that some of the members of that committee desired the change. He looked only to the substance and the conclusion, and cared but little about the mere phraseology. It was a point of too little importance to dwell on. He must say, that he had heard the remarks of the Senator with pain. He had hoped, on this occasion, to have his zealous support. He yet hoped to have his vote. The principle involved is one of profound interest, especially to the portion of the Union he represented; and it was on that conviction he had offered them. Looking to the future, it is impossible to say what may result from the grounds assumed by the British Minister. Viewed practically, it was a question of no small magnitude. Cases of the kind must be constantly occurring; unless, indeed, the increased hazard from this new danger should have the effect of closing the intercourse by sea between the Southern Atlantic ports and those of the Gulf, so far as our slave property is concerned. If to this be added the injury done to our citizens, in refusing compensation for property seized and detained contra-

ry to justice and honesty, and the dangerous principle on which the refusal is placed, the Senator ought not to be surprised, or have any difficulty in accounting for the introduction of these resolutions.

He admits there would have been no impropriety in introducing them, had there been a pending negotiation; but thinks there is, because the British Minister had closed the door of negotiation. He (Mr. C.) took the very opposite view. Pending the negotiation, and before the decision was known, the propriety of a movement of the kind would, to say the least, be doubtful; but now that it has been made, and justice refused, silence would have been construed into an abandonment of the claim of our citizens, and an acquiescence in the dangerous principle on which it was rejected. It was to repel such inference, that he desired to take the sense of the Senate. If the resolutions should receive the vote of the body, it would keep alive the claim, and, what was still more important, rebut any inferred abandonment of the principle on which it rests. He hoped that it would never be surrendered. Justice was on our side, and if we cannot succeed in establishing it now, there is no reason why we may not hereafter. He trusted that the strong expression of opinion by the Senate, which he this day anticipated, would rouse an attention to the subject, that might lead to a happy termination of a controversy which could not be safely kept open. Be that as it may, it is our duty to maintain our ground. If we now yield—if the Senate should refuse to act on the resolutions, or vote them down, we surrender both right and principle.

He would appeal to the Senate, and ask if it is ready to say that the rights of the South to the great mass of its property, that which enters so deeply into their political and social institutions, and on the maintenance of which, not only their wealth and prosperity, but peace and safety depend, shall be outlawed and placed beyond the pale of protection? Is it prepared to distinguish between this and every other description of property, so as to leave this alone undefended? The British Minister acknowledges that compensation ought to be made for every other description, under similar circumstances, and places the distinction between this and others, on ground fatal to its existence, if it be admitted. Is she right? That is the question; and are you ready to say so, by your votes? If so, it is time we should know it; and if not, you should speak out plainly and distinctly.

He had not supposed that there was a member of the body that would be embarrassed by the resolutions; on the contrary, he had hoped that all would have been pleased with the opportunity, in a case so strong and clear, of recording their votes in our favor,—to stand by us on this great question, in which we are particularly concerned, as we have stood by them on a recent occasion where they were.

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It is a proud recollection for the South, that she never halted to count the cost or danger, when the interest of any portion of the Union, the most remote, called for defence. This is the first difficulty with Great Britain, in which we have been immediately interested. The war of the Revolution originated in causes much more Northern than Southern; and still more strikingly was that the case in the last war. Did we hesitate in either? No; the generous South, ever devoted to the liberty and honor of the country, and true to its engagements, poured out freely her means, in blood and money, for the common cause, without asking whether she was to be the gainer or loser. What he asked was, that the same zealous and ardent support that we have extended to other portions of the Union, should now be extended to us on this occasion.

Mr. CLAY of Kentucky, observed, that he would not have advised the introduction of the resolutions, though there was not a man in the Senate or in the country more ready to defend our rights by all the means which God and nature had given us, in reference to that particular species of property which the Senator alluded to. He thought, however, that prudence and discretion should admonish us not too often to throw before the world questions in relation to it. Who could believe that Great Britain, because she has refused to make compensation for the slaves on board the wrecked vessel which her colonial authorities had liberated, would interrupt or interfere with our coasting trade? Who could believe that she would assail such a description of property as that on board that vessel? Let her show such a purpose, and, his word for it, there would be but one feeling on the subject throughout the whole country. But what would the Senator propose but war for the redress of this injury, since all negotiation on the subject was at an end? Was that such an open, undisguised attack upon us as to justify such a measure? A vessel pursuing her voyage from Norfolk to Charleston, is cast away on one of the Bahama islands, and the slaves on board, having been brought up before the authorities there on a *habeas corpus*, are liberated. Here, whatever the British Government had done, was involuntary. She had not gone out of her way to attack us with regard to this description of property. If she had done so, the Senator from South Carolina would not be in advance of him in resisting her. But in this case, the vessel was cast away in a storm on one of the British islands, and the slaves on board having been liberated by the authorities of that island, on a *habeas corpus*, she will neither surrender them nor make compensation for them. Though there was a material difference between the resolution as it originally stood, and as it was now amended, yet, inasmuch as it contained truths, he should vote for it, though he regretted its introduction.

Mr. CALHOUN. He had said nothing that

could justify the Senator in accusing him of imputing to the British Government hostile or improper motives, nor that could lead to the belief that there was danger she would seize our vessels at sea, with the view of liberating slaves on board. He did not suppose that she is about to turn buccanier, and plunder our coasting trade; but her decision will interdict nearly as effectually the intercourse by sea between one-half of this Union and the other, as to the greatest and most valuable portion of the property of the South, as if she were to send out cruisers against it. The voyage was a most dangerous one. The Bahama group of islands extends for nearly two hundred miles along the eastward of Florida, at an average distance of not more than fifty miles, with a strong current, running many miles an hour, sweeping through it, and beset with dangers from innumerable shoals and keys. Through this dangerous channel, subject to storms, the vast intercourse between the Western and Atlantic cities passes by sea. Numberless wrecks occur annually. It was estimated many years ago, when the intercourse was far less, that the loss annually from that cause, was more than half a million of dollars. To this danger is now superadded, in the case of slave property, plunder by seizure and detention on the opposing and inhospitable shore; thus virtually interdicting to that extent, this, the greatest of all our thoroughfares. It is to repel the inference of acquiescence in a decision leading to such consequences, and resting on a principle still more dangerous, that he solicited the vote of the Senate.

Mr. PORTER said: Mr. President, I desire to do my duty in some form by recording a vote on these resolutions, and yet I am met by difficulties on both sides of the main question they present, which I frankly confess I am greatly embarrassed in attempting to surmount.

I look first to the necessity and expediency of this species of preliminary action by the Senate on a subject of this magnitude and delicacy, which proposes to declare, in advance, the principles of the law of nations as applicable to slave property, thrown by the act of God, within the jurisdiction of a country where slavery does not exist; and having arrived at the conclusion that such action is not expedient or necessary, I look, secondly, to the consequences which, in my humble judgment, necessarily result from the adoption of these resolutions, and which are by no means agreeable subjects of contemplation to me. These consequences I regard, sir, with an eye to the national honor only, which, in my view, cannot remain unsullied while the principle, as it is stated and applied in the last resolution, remains a silent record on your journal, unasserted, unvindicated, unacknowledged, unliquidated, by the demand and payment to the uttermost farthing of the sum claimed for the slave property on board the *Enterprise*, driven into the island of Bermuda.

From the reading of the documents accom-

panying the special message of the President of the 25th January last, consisting of the correspondence between Mr. Stevenson and Lord Palmerston, which was terminated by an adjustment, on the part of the British Government, of the claims for slaves wrecked on the Bahamas, on board the brigs Comet and Encomium, we are informed that the British Government has already refused to make compensation in the case of the *Enterprise*, on the ground that the latter vessel was thrown within British jurisdiction, after the period when slavery was abolished throughout the British dominions, which objection was not applicable to the cases of the two former vessels.

In the correspondence alluded to (of a regular diplomatic character) between the representatives of the two Governments, we find this principle distinctly and emphatically stated; and it is in the very teeth of this *quasi ultimatum* of the British Government on the question, and in reference to this very case of the *Enterprise*, that the last of these resolutions stands. Sir, I may mistake the effect which necessarily results from its adoption; but to my mind it is a pledge to the claimants and to the world of a determination on the part of our Government, so far as this Senate is concerned, at least, to demand the adjustment of this already rejected claim. Viewed in this light, profound as my deference is for the great abilities and eminent attainments of the honorable Senator from South Carolina, (Mr. CALHOUN,) so signally developed in his examination of this question, when these resolutions were before us for consideration previous to their reference to the Committee on Foreign Relations, I confess it is to my mind beset with doubt and difficulty.

The right of the British Government to abolish slavery in her colonies, is admitted. And what are the consequences of the exercise of that right to the liberated slave? Does it not place him under the protection of British laws, which give him the right, while he conforms to them, to demand, at all times, and under all circumstances, the enfranchisement of his person? And is not this right equally sacred and inviolable, whether he be an alien, a denizen, or a native? for I know of no principle which deprives him of one or the other of these designations, even in the case of those wrecked in the *Enterprise*. British courts are open to him—the remedy by *habeas corpus*, co-extensive with the range of British laws, is his; and if it reaches him, it must liberate him.

The possession and enjoyment of every species of property is attended with its hazards. It is more or less exposed to destruction and loss, from the peculiarities that belong to it. The precarious tenure of slave property is peculiar to itself. It has vitality, volition; and more, a human intellect to guide it—to prompt it to flight—to put forth the moral and physical resources and powers of *man* for its own

defence and safety, and to defy efforts at recapture. The loss of this species of property by flight is, to my knowledge, immense; and when it reaches within the limits of a foreign jurisdiction, pursuit not only ceases, but the demand of restitution is silent. What becomes, in this instance, then, of the principle of national comity, which gives to the subject or citizen of one country the right to obtain, through the tribunals of another country, his property found there? I can give no answer, where the escape is to a British jurisdiction, other than to say it is lost in the privileges and immunities of the people of England, "whether aliens, denizens, or natives;" and I confess myself unable to discriminate between the right to demand restitution in such a case, and in that of the *Enterprise*, now before us, provided it appears that no act of violence has been committed by the British authorities, whereby this vessel was brought into Port Hamilton. If it be the act of Providence which enables the slave to plant his foot on a soil which liberates in the one case, so it is in the other; and he is alike, in my judgment, *property*, subject to recapture and right of control or not, as much in the one as in the other, and no more.

But it is said, in the language of the first of these resolutions, "that a ship or vessel on the high seas, in time of peace, engaged in a lawful voyage, is, according to the laws of nations, under the exclusive jurisdiction of the State to which her flag belongs, as much as if constituting a part of its own domain." This is true, in so far as the vessel, persons on board, and cargo are subject, properly, to admiralty and maritime jurisdiction; but I apprehend it is no farther "exclusive." Common law rights existing or arising on the high seas, either in respect to persons or property, are cognizable in the English common law courts, wherever they may be found; and I cannot conceive that any other strictly civil injuries can arise there, than such as are of a transitory nature, in respect to jurisdiction.

Is not personal liberty a common law, as well as a natural right; and does it not attach to every human being falling within the cognizance of British laws? When a British statute liberates a negro slave, does not the panoply of the common law cover him? And is the British Government prepared to admit, in violation of one of its most cherished maxims for ages, that this law is, in any of its features, in contravention of the laws of nations.

Mr. President, it is from no spirit of fanatic zeal in the cause of negro emancipation, as it is now sought to be promoted in this country, by private conventional means, that I make these suggestions. The constitution and laws under which we live, give unquestioned protection to the enjoyment of this species of property; and while the mutual obligations which bind together this confederacy of States exist

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as they now do, I will be one of the last to interfere with it, either in its possession or in its recaption, whether the right by law to recaption is given. But it cannot be enjoyed without the limits of our own jurisdiction, and I am unwilling, in this form, to place the country in an attitude in which national honor will demand the assertion of this right of recaption elsewhere, and in a manner which may conflict with the local laws and jurisdiction of a foreign country. Slavery is a domestic institution with us, and all the principles of right in respect to it are well established and defined by the legislation of the States in which it prevails. There, under the guarantees of the Constitution of the United States, I wish to keep it. If it be an institution conferring benefits on the communities whose laws authorize it, be theirs the undisputed, unquestioned right to the enjoyment of their benefits. If it be an evil, the fact will sooner or later develop itself, and theirs and theirs only, will be the remedy. But, in the present state of the civilized world, I confess I deprecate any agitation of this subject, not called for by the necessity of immediate action, calculated to make it the foundation of international controversy. The reasons I will not dwell upon—still less will I venture to speak of the consequences of a national war proceeding from such a ground of disagreement.

It also occurs to me, sir, (and I throw out the suggestion, as I have all others here advanced, with great diffidence,) that the adoption of these resolutions would be premature, inasmuch as there do not appear to have been any proceedings instituted in the courts of Bermuda resulting in a final judicial decision of the questions they present. If the principles they assume be sound here, they must be sound there, for they are derived from the international code, according to the doctrines contended for, and the courts of all civilized countries are bound by them. And if they be judicially inadmissible in respect to slave property in these courts, then the remedy is by legislation or negotiation; and here I fear we should be met, not only by obstacles founded in the very spirit of the British Constitution, but by others, equally formidable, arising from a natural repugnance of the British Government to make the right to slave property, exposed by casualty to the action of her tribunals, the subject of either, in the face of her recent policy of general emancipation.

For these reasons, erroneous though they may be, I join with the honorable Senator from Kentucky, (Mr. CLAY,) in the expressions of regret that these resolutions have been presented for our action. I have not spoken to enlighten the Senate, for I am too conscious of my humble rank here to hope to do so, or with the expectation that I shall be sustained by a single voice; but merely to explain the difficulties under which I labor in my own mind, and in justification of the motion I now

make, (thus going one step further than my distinguished friend,) that these resolutions be laid on the table.

The question was then taken on Mr. P.'s motion to lay on the table, and it was decided in the negative, as follows:

YEA.—Mr. Porter.—1.

NAYS.—Messrs. Allen, Anderson, Benton, Brown, Buchanan, Calhoun, Clay of Alabama, Clay of Kentucky, Clayton, Crittenden, Cuthbert, Dixon, Fulton, Grundy, Henderson, Hubbard, King, Linn, Lumpkin, Merriek, Mouton, Nicholas, Norvell, Pierce, Roane, Robinson, Sevier, Strange, Sturgeon, Tappan, Walker, Williams, and Young, —33.

Mr. BENTON wished to say a word before the vote was taken. He wished to show that not only the citizens of Southern States were interested in this matter, but also those of Western States, or those who wished to emigrate with their slaves to the west. Among the passengers in the *Encomium*, one of the vessels named in the debate on these resolutions, was Mr. Charles Allen, a citizen of Missouri, who was returning from a Southern State with a few valuable family slaves, which were taken from him by the authorities at Nassau. And although the owners of the other slaves have been compensated, Mr. Allen's claim has been disallowed, because the British Consul stated that the slaves departed with him. Mr. Allen made due proof of the loss of his slaves by the act of the British authorities; but, notwithstanding this, he has been notified that he will receive no compensation. This is an additional result of the principle avowed by the British Government, and an additional reason why we should pass these resolutions. The certificate of a consul, given in a case where he can hardly know any thing of his own knowledge, is to deprive an American citizen of his property, and to countervail all other testimony. In this way all claims may be defeated. The conduct of the British Government, Mr. B. said, was unjustifiable—a breach of the law of nations—and a wrong and indignity to the United States. She possesses islands lying in the Gulf of Mexico, in the very tract of all our ships entering or departing from the gulf, and where tempests are frequent and shipwrecks frequent. If an American vessel, thus passing from one part of the United States to another, is driven by the tempest into any of these islands, and has slaves on board, the British Government declares them free! and, in the case where she has paid for some of those slaves, others are refused on a consul's certificate. This is unjustifiable, and we should so declare it.

The question then being taken, the resolutions were unanimously adopted, as follows:

YEA.—Messrs. Allen, Anderson, Benton, Brown, Buchanan, Calhoun, Clay of Alabama, Clay of Kentucky, Clayton, Crittenden, Cuthbert, Dixon, Fulton, Grundy, Henderson, Hubbard, King, Linn,

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Lumpkin, Merriek, Mouton, Nicholas, Norvell, Pierce, Roane, Robinson, Sevier, Strange, Sturgeon, Tappan, Walker, Williams, and Young—33.

NAYS.—None.

WEDNESDAY, April 22.

*Duties and Drawbacks on Sugar, Salt, and Molasses—Repeal of the Salt Tax and of the Fishing Bounties and Allowances.*

The bill to reduce the drawbacks on refined sugars and distilled rum exported, in proportion to the reductions of duty on the imported sugar and molasses out of which they were manufactured, and to reduce the fishing bounties and allowances in proportion to the reduction of the salt duty on which they were founded, being the special order, was taken up, and, having been read—

Mr. BENTON rose and said, that the object of the bill was to correct the errors of previous legislation, and especially of the compromise act of 1833; errors by which the constitution was undergoing a daily violation—the Treasury was suffering a daily loss of money unjustly drawn from it—and the end of which would be, if not arrested, to turn over the whole amount of the revenue from sugar, salt, and molasses, to the rum distillers, the sugar refiners, and the North-eastern fishermen.

Mr. B. said that when the compromise act was on its gallop through this chamber—that act which adjourned the tariff question to the year 1842—adjourned it from a time when it was ready for settlement, to a time when no one will be thinking of it—to a time when the South especially will be sound asleep upon the subject; when that act was on its gallop through this chamber, he had endeavored to prevent the evils which it was the object of this bill to arrest; and for that purpose had offered an amendment, which, not coming from one of the contracting parties to the compromise, was not allowed to be adopted. That amendment was in these words!

“That all drawbacks, allowed on the exportation of articles, manufactured in the United States, from materials imported from foreign countries, and subject to duty, shall be reduced in proportion to the reduction of duties provided for in this act.”

Such was the amendment which he offered. It was self-evidently just and proper; it was right and proper on its own face; yet it was rejected, and notoriously rejected, because the bill had been arranged out of doors, and was not to be amended in the House except upon the consent of its authors. The vote of rejection was 24 to 18; and I am perfectly aware that what was difficult to be done then, is more difficult now; that those who have profited by our erroneous legislation, and still wish to profit from it, constitute a powerful obstacle to our legislation; that an immense speculation is in

progress, founded on these errors in our legislation; and the doctrine of vested rights now seems to extend to all the errors and mistakes, as well as to all the abuses of legislation. The sugar refiners—the rum distillers—the North-eastern fishermen—stand together to defend the advantages they have gained. Not content with the vast sums which they have already unduly obtained from our Treasury, the fruit of our vicious legislation, they become more insatiate in proportion to the amount they have received, and now boldly resist, as an invasion of their rights, any attempt to correct our own errors; and these refiners attack with abuse and personalities the member of Congress who ventures to do his duty to his country, and to attempt the redress of a public wrong.

The abuse of the sugar drawback commenced in 1829. It commenced in the act of January of that year, which increased the drawback from four cents to five cents a pound. I opposed that increase at the time, and foretold its injurious effect on our Treasury, and on our domestic sugar. I then foretold that that increase of drawback would vastly augment the importation of foreign sugars, to the prejudice of our own; that it would discourage the use of our domestic sugar for refining; that it would establish vast manufactories in our country to refine, not domestic, but foreign sugars; and that it would cause immense exportations of this article for the mere benefit of the drawback, the one-fifth part of which would be a mere gratuity from the Treasury. This is what I said in December, 1828, when the bill for the increased drawback was on its passage in this chamber; and all the evils which I then foresaw and denounced, were in a state of sufficiently rapid development when the compromise act of 1833 came into life, and aggravated tenfold the evils of the act of 1829. By this compromise act, the almost incredible, and certainly unparalleled error was committed, of reducing duties without reducing the drawbacks founded upon them; an error which has had the direct effect of going at once to the *ne plus ultra* of the protective system, that of granting bounties out of the Treasury; a species of protection, which General Hamilton failed to establish in 1791, and which then, and ever since, has been admitted to be as flagrantly unconstitutional as it is grossly unjust to the community. The compromise act has established this species of protection, and now let us see its operation in relation to refined sugars; and now let us see its effect in stimulating the importation of foreign sugars, increasing the exportation of refined sugars, and increasing the amount of drawback from the Treasury. These results are seen in the Treasury returns, which have been communicated to the Senate, and printed by its order. Taking these returns from the year 1828-'9, when the erroneous legislation in relation to sugar first begun, and the successive importations are:

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Year.	Brown. Pounds.	White clayed, &c. Pounds.
1828	51,686,955	5,249,006
1829	58,597,574	4,709,720
1830	78,576,388	7,906,658
1831	98,576,928	10,437,726
1832	60,117,717	6,834,571
1833	85,689,044	11,999,088
1834	107,483,841	7,966,014
1835	111,806,880	14,229,359
1836	181,243,537	10,182,578
1837	120,416,071	15,723,748
1838	139,200,905	14,678,288

Here is an increase of near three to one in about ten years; an increase which is beyond all proportion to the increased population and commerce of the country; an increase which has not been affected by the panics and distresses at home, and which is upwards of twice as great in the ruinous years of 1837 and 1838, as it was in the year 1832, when the Bank of the United States was in the zenith of its power and glory. Such an increase is unnatural and factitious, and announces the existence of some occult cause to stimulate and extend this branch of business beyond its proper bounds; while so many other branches of industry have been suffering from the bank suspensions, and the artificial and political panics and alarms with which the country has been afflicted. Such an increase, under such circumstances, announces the existence of some secret stimulus; and that stimulus is found in the vicious legislation of Congress in 1829 and 1833.

The increased exportation of refined sugars, and the increased amount of drawback upon them, have gone steadily forward, and with gigantic strides, since the compromise act has begun to take fuller effect. In five years—from 1835 to 1839—these annual increases are:

Years.	Pounds exported.	Drawback.
1835	856,590	\$42,329
1836	1,675,372	83,768
1837	2,012,854	100,642
1838	2,909,886	145,494
1839	5,026,017	251,301

Here is an increase of sixfold in five years; an increase of upwards of 100 per centum annually, for five years in succession; and these five years covering two bank suspensions, divers panics, and repeated jeremiads over the universal ruin produced by this wicked and worthless Administration. Surely it will be admitted that there are some exceptions to this universal ruin; that the sugar refiners at least are doing well; and are likely to do so long as our compromise act remains in force.

Strongly as this table presents the question, there is a still stronger view of it to be presented: it is the table of the amounts of drawback paid on these refined sugars for fifteen years, and by which it will be seen that, previous to the erroneous legislation of 1828, these drawbacks vibrated from \$1,600 to \$5,800; that immediately upon the passage of that act they rose as high as \$45,000 and \$84,000; and

that on the passage of the compromise act in 1838, they took another rise, and have run up to \$251,301. Here is the table of these astonishing increases, the mere view of which announces the existence of great errors in our legislation:

Years.	Amount.
1825	\$1,612 68
1826	2,627 57
1827	5,834 36
1828	2,045 48
1829	45,092 56
1830	84,230 48
1831	63,688 65
1832	42,840 65
1833	34,643 80
1834	162,086 05
1835	42,820 50
1836	83,768 60
1837	100,642 70
1838	145,494 30
1839	251,301 35

Such is the increase of the drawbacks on refined sugars in the short space of fifteen years; I may say ten years; for the increase began with the erroneous law of 1829. The table proves the error; but it is not the only proof to that effect. A letter from the deputy collector of Philadelphia, Document No 384, attests the fact, and that in relation both to sugars and fish, he says:

"Under the act of January 21, 1829, the *bounty, drawback, or allowance*, is at five cents per pound, and no more. As there is no excise paid by the refiners, the allowance of five cents per pound was, in 1829, considered as equivalent to the amount of duties paid on two pounds of brown sugar at 2½ cents per pound, the duty payable on the same at the time of passing the act. The duties now are less by the excess under the act of 1832, and yet the drawback or bounty on the sugar is the same. It is so with bounty on pickled fish of the fisheries of the United States. When 20 cents per barrel was allowed, it was to drawback the duty paid on a bushel of salt, supposed to be used in curing a barrel of fish. Now the duty is less than 10 cents in the excess, yet the bounty remains at 20 cents, which is for more than two bushels of salt."

He also says:

"The quantity of refined sugar exported in 1839, (last year,) at this port, was 384,784 pounds, which, at 5 cents per pound, made \$19,239 20 as a drawback. This far exceeds any amount paid for many years. In looking over our accounts from 1824 to 1838, inclusive, the highest amount does not exceed \$2,600—say in 1836."

And he says further:

"I understand that large quantities of refined sugars will be exported from hence, and probably from other ports of the United States. I think the term *sugar refined* rather vague. Some of the refiners are of opinion that all sugars melted and properly clarified, and freed from all extraneous substances, may be considered as *refined*—that bastard sugar is refined sugar. I must confess that there is some plausibility in this, and it should be



guarded against by the Legislature; for, although the bastard sugar is nothing more than the sugar-house white and brown sugars, yet it has gone through the same operation as the loaf and lump sugar, the only difference consisting in the last process of claying; but it is an inferior sugar—far inferior to a good muscavado in strength. I think the bounty, if allowed at all, should be on *refined loaf and lump sugar*; and, if the privilege of crushing the loaves or lumps were given, the crushing should be done in the presence of an inspector. The object of crushing can only be for the purpose of saving freight, to which there might be no objection, if done under proper inspection."

Finally he says:

"I will, however, recall to your recollection a circumstance which occurred in this office. Mr. Canby invited you to call at his establishment in Church alley, several years ago, to see his process of refining, but refused to permit me to accompany you. In the course of conversation, the question arose as to the quantity of raw sugar necessary to make one pound of refined sugar. He stated that his brother thought that the bounty should be on  $2\frac{1}{2}$  pounds of raw, but his own opinion was that  $2\frac{1}{2}$  pounds were ample; the duty then was  $2\frac{1}{2}$  cents per pound, while I thought that an average of 2 pounds would be enough."

Adding this testimony of the deputy collector to the pregnant evidence of the tables, and the conclusion becomes irresistible, that enormous drawbacks are unduly drawn from the Treasury—that they are still increasing—that they are paid even on bastard sugar—and that there must be an error of half a pound of brown sugar in every pound of it refined.

Of the \$251,000 drawn from the Treasury last year, I consider \$150,000 to have been unduly and unjustly drawn. I do not say illegally, because our miserable laws authorized it. I consider three-fifths of the whole to be a naked gratuity—a mere bounty—a simple present from our Treasury; and I make up that sum thus: The act of 1829 added one-fifth to the drawback, which drawback was sufficient before: this would give an error of \$50,000 in \$250,000. The act of 1838 has nearly reduced the duty on sugar one-half, which should have reduced the drawback also near one-half: this would take near \$100,000 from the remaining \$200,000. This gives a total loss to the Treasury in 1839 of near \$150,000; a sum great in itself, but a mere trifle to what it is to be in 1841 and 1842, if the evil is not arrested. It is then that the duties go down to twenty per centum on the value, which will be little more than half a cent a pound on brown sugar, while the drawback is to remain at five cents a pound! This is a folly of which there is no example in the annals of legislation. It may safely be asserted that the legislative history of the world furnishes no instance of such careless and reckless and unjust legislation. But bad as it is—great as the loss to the Treasury already is—yet we are only at the beginning of it. The great harvest for the refiners is still ahead—it

is in the years 1841 and 1842—when the compromise shall have reduced the sugar duty to half a cent, and left the drawback at five cents. Then the harvest takes place; and surely these two years will more than absorb the whole sugar revenue, and exhibit the spectacle of seventeen millions of people taxed in an article of universal consumption, in order to make a gracious present—a gratuitous gift—of the whole amount of the tax to some thirty-odd sugar refiners! Two years of such work will be able to clear princely fortunes; and it is highly probable that the most reasonable of the refiners will be willing for Congress to amend its law after that time. The game will be in their own hands; and two years of such work as they can perform, ought to satisfy the most greedy and voracious. A bounty, and a monopoly, at once in their favor! Five cents drawback on refined sugar; less than one cent duty on brown sugar; the treacle, syrup and sugar molasses all clear; a duty on foreign refined sugar, which excludes it from our market; the exclusive supply of the home market at their own price; drawbacks all payable in thirty days in solid money; hundreds of millions of pounds of brown sugar rapidly imported, converted by steam power into bastard or refined sugar, and exported at five cents a pound out of the Treasury: such is the fruit of our legislation—such the prospect before us—such the prize for which the refiners come here to contend—and such the mischiefs against which, solitary and alone, I raise my feeble and unavailing voice.

Mr. B. said he could not take leave of this topic of sugars, without noticing a paper which had been communicated to the Senate, and printed by its order; it was a letter from several sugar refiners in the city of New York, addressed to a member of this body, (Mr. WESTER.) The letter selected an expression from a former speech of his—the one he made, on asking leave to bring in this bill—and very clearly proved that expression to be erroneous. I then said the amount already paid to the sugar refiners for their drawback exceeded the whole amount of the sugar revenue, and that seventeen millions of people were *now* taxed on their sugar to turn over the whole amount of the proceeds of the tax to a few dozen sugar refiners. This was an error; but an error in time only. Instead of *now* receiving the whole amount of the sugar revenue, which they do not, these refiners will so receive it about two years hence! It is an error of two years; an error which has no effect upon the character of the bill, or the necessity of passing it. The truth is, that the duty on sugar going down—the exportation of refined sugars enormously increasing—and the drawback remaining stationary, the result is clear that the drawback will exceed the revenue when the duty reaches its minimum in 1842. This is clear; but whether the drawback should ever exceed the duty, is perfectly immaterial to the question of

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passing this bill. The amount of duty which they have paid in, is all that the refiners have a right to draw back. They have no right to a cent beyond the amount they pay in. The whole point of my speech was to show that they received more than they paid; this they do not deny, and cannot deny. No man upon earth can deny it. Whether they now receive the whole amount of the sugar revenue, which they do not, or shall so receive it after 1842, which they will, is perfectly immaterial to the point of the debate, or the character of the bill, or the necessity of passing it. And here I will make the remark, that these refiners, by taking the trouble to show this error in my speech, and showing none but this, admit the correctness of the remainder. They admit the enormous increase in the amount which they draw from the Treasury, and which has risen from \$42,000 to \$251,000 in five years. They admit that they receive more than they pay—that they draw back out of the Treasury more than they put into it—and this is the sole point in the case. It is the sole question upon which the passage of this bill should depend. Thus by attacking an immaterial part of my speech, and leaving the material parts unanswered, they admit the truth of all that is material. And more: by attacking this statement, which I had myself long since corrected—by attacking this, and leaving unnoticed the letter of the deputy collector of Philadelphia, they admit all his most essential statements in relation to bastard sugars, crushed sugars, increasing drawbacks, excess of drawbacks over duties, and the false basis of two and half, or even two and a quarter, pounds of brown sugar to make one pound of refined. All this they admit by not denying it, while denying an immaterial statement, erroneous only as to time.

So much for the sugar drawback; now for the rum and molasses. On this head I will be brief, because the question is less complex, and also less in amount than that of the sugar drawback, and derives its abuse from only one law. No act previous to the compromise gave any undue advantage to the rum distiller; it is that act alone which, by reducing the duty on molasses, without reducing it on the rum distilled from it and exported; it is this act which does all the mischief in this case; and its effect will be seen in the rapid increase of the quantity of rum exported, and the amount of drawback paid, since the act began to operate largely upon the reduction of duty. In the last four years these quantities and amounts stand thus:

Years.	Gallons exported.	Drawback paid.
1836	75,271	\$1,010
1837	116,588	4,663
1838	214,742	8,589
1839	356,699	14,267

Such are the results in four years under the stimulating bounty of the compromise act. An increase of four fold in four years! An

annual average increase of more than one hundred per centum in four years of great embarrassment and much general decline in other business. Surely the rum distillers have not felt the distress of the times; surely they ought not to join distress meetings, and sign panic petitions; nor cheer the orators of alarm orations. An increase of four fold in four years is a fine improvement in any business, and in the best of times; and in the present time it is wonderful; but it is only a foretaste of what is to come. With the rum distillers, as with the sugar refiners, the harvest is still ahead! The years 1841 and 1842 are to be the glorious era of the rum business. Then the molasses duty will go down to less than one cent on the gallon; the drawback will remain at four cents; a gallon of one will make near a gallon of the other; and if the hard times continue, and the banks choose to sink the price of corn and rye a little lower, then the whole drawback can be cleared by substituting whiskey for molasses in the rum distillery. This is what can be done, and probably will be done; for the temptation will be too great to be resisted. But take it either way, and the effect will be about the same to the Treasury. The reduction of the molasses duty in 1841 and 1842, to almost nothing, while the drawback on rum remains at four cents a gallon, must stimulate the exportation of rum, and increase the total drawback to an amount above the total revenue derived from molasses. Then will be seen the same spectacle in the case of molasses, which will be seen in the case of sugar—a whole nation taxed for the benefit of a few individuals! The molasses revenue will not be sufficient, after 1842, to pay the drawback founded upon it. Seventeen millions of people will then be taxed on their molasses for the benefit of some hundred rum distillers; and this the effect of a law which was not allowed to be amended when on its passage through this chamber; and which now, claiming a pre-eminence over all other laws, and setting up a title to sanctity, is called, *sacred and inviolable*, and not to be touched by the hand of legislation!

Mr. B. proceeded to the third clause in the bill, that which related to the reduction of the fishing bounties and allowances; and said that he was here met by a preliminary question—by a question of fact—whether the fishing bounties and allowances were founded upon the salt duties, and ought to rise and fall with the increase or reduction of that duty? I am met, said Mr. B., by this question; and having been met by it, I deemed it my duty to apply to the Senate for a committee to examine the laws and documents which apply to it, and to make a report upon the whole subject to the Senate. That committee has obeyed the order of the Senate; it has discharged its duty. It has made a report going back to the year 1789, and tracing the question through all its changes and bearings from that day to this; and have

demonstrated, as they believe, that the fishing bounties and allowances rest upon the salt duty, and nothing but the salt duty; that they are the commutation and equivalent for the drawback of the duty paid on the salt used in curing that part of the cod and mackerel fish which are exported to foreign countries; and, consequently, ought to be reduced in proportion to the reduction of the duty on salt. In support of this opinion, the committee have collected a mass of laws and facts which I hold to be conclusive and irresistible. Their report has been printed, and lies on the tables of members; and, until its doctrines are impugned or controverted, I deem it unnecessary, in this chamber, to repeat or enforce them. Referring Senators then to the legal and documentary history of the bounties and allowances, as traced in that report from the year 1789, and relying upon its evidence to carry conviction to the minds of all who shall read it, I pass to some opinions on the subject which have fallen into my hands since it was written—which were written contemporaneously with the report, and which are entitled to peculiar weight, because they come from an important city in the fishing district, and where the reduction of these bounties and allowances are made a subject of much contestation. I speak of the *New Hampshire Gazette*, and the editorial article which it contains under date of the 9th inst. The paper itself is the oldest Democratic paper in the State; its editor, Mr. Greenleaf, is a gentleman of great candor and intelligence; and his opinions and conclusions, written simultaneously with the committee's report, and at the distance of five hundred miles from this city, are precisely the same which the committee have presented. After saying something in relation to the excitement endeavored to be got up against Dr. Moriarty, the surveyor of the port at Gloucester, Mass., for some communication in relation to the fisheries, he says:

"We know nothing of Dr. Moriarty's opinions in relation to the repeal of the salt tax, and the system of bounties and allowances; but in our humble opinion all Democrats ought to be in favor of this repeal. Whatever other arguments may have been used in the original adoption of the bounty system—whatever may have been urged in its favor in regard to the usefulness of the fisheries, and their forming a nursery for seamen—it is manifestly founded on the salt duty; and but for the consideration that the fisheries were the great source of revenue derived from the salt tax, the bounty system could never have been established. The very conditions annexed to this bounty, establish this fact beyond dispute. \* \* \* \* \* If the bounty rested on considerations independent of the salt duty, and these considerations were the encouragement of the fisheries, on the principle that they form a nursery for seamen, to be transferred to our navy, why was it not extended to merchantmen on foreign voyages? And why not to the hardy sailor on every branch of trade throughout our extensive seacoast? Are not these, also, nurseries for seamen, even more extensive than those

of our fisheries, which, in case of war, may be transferred to our navy? And why not pamper the farmer, also, with a system of bounties, who rears up in the field the most hardy and efficient race of men to fill the ranks of our armies? \* \* \* \* \*

We protest against the injustice of bestowing bounties in the absence of any sort of tax to be pleaded as an offset: and we, in like manner, protest against continuing a tax, not needed, on an article indispensable to the whole community, for the special purpose of perpetuating a system of bounties to one class, which is confessedly, by the operation of the reduction of the tariff, under the compromise act, very shortly to prove greater than the tax itself. \* \* \* \* \*

By the operation of the compromise act, (of which Mr. Clay has claimed the paternity,) the Treasury is now suffering under a system of bounties, drawbacks, and protections, which, if not already the case, must shortly prove a drain upon the Treasury greater than will be counterbalanced by the duties paid. No provision was made for a corresponding reduction in drawbacks, bounties, and allowances, in that act for the gradual reduction of the tariff. The Government, therefore, has been obliged to pay these in the same manner as when the highest rate of duties existed, while the tariff of duties has suffered an annual reduction of ten per centum on all the excess above twenty per centum on the value. \* \* \* \* \* But the time has come when this subject should be probed to the bottom. The system of bounties should rest on its true foundation, to wit: the tax; and if it cannot be abolished at a period when, by a reduction of the duties, the bounties bid fair to exceed the amount of the tax, we may indeed despair of the Republic, and give it up as a prey to a ravenous system of exclusive monopolies, bounties, and protection."

Such are the sentiments (continued Mr. B.) of an enlightened and patriotic editor, living in a town which is itself a seat of the fisheries, and where twenty thousand dollars of annual bounty are paid. His sentiments are as just as they are disinterested, and will become the unanimous sentiment of the country. Truth is powerful, and will prevail. Arguments to the judgment, and to the moral sense, of an enlightened community, never fail of their effect. They soon put to flight the arguments addressed to ignorance, to cupidity, and to faction. And here I shall drop this branch of the argument, barely remarking that my colleague on the Select Committee on the Fisheries, (Mr. ANDERSON of Tennessee,) will reply to the arguments of the Senator from Massachusetts (Mr. DAVIS) contained in his minority report; and that, at a convenient season, I will also say something in reply to it. At this time, as that gentleman is not present, we will not say a word in relation to his report.

I now proceed to show the injury to the Treasury already sustained, from the failure of the laws to reduce the bounties and allowances to the fisheries in proportion to the reductions of the salt duty on which they are founded. These reductions of duty began in the year 1830, and were, for that year, a reduction of 5 cents on the bushel, or a reduction of one-fourth; for the year 1834, the reduction was 10 cents, or the one-half; since

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*Duties and Drawbacks on Sugar, Salt, and Molasses.*

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the compromise act of 1833, the reduction has undergone further periodical reductions, and may now be at about 6 cents to the bushel, or the one-third of their original amount. It is clear that the bounties and allowances should have been reduced in the same proportion during all this time: instead of that, they have been paid in full; and this table of the amounts actually paid, and of the amounts which should have been paid, exhibits the annual loss to the Treasury:

Years.	Amounts paid.	Amounts which should have been.
1830	\$206,715	\$151,425
1831	213,894	101,947
1832	234,137	117,068
1833	258,466	129,233
1834	229,070	114,535
1835	233,321	116,165
1836	219,822	104,961
1837	257,541	118,720
1838	319,149	106,574

The aggregate loss to the Treasury from 1830 to 1838—thelast year to which the accounts have been made up—is about one million. This is a large sum for the Treasury to lose, by a single drain in nine years; but henceforth it is to be much larger. The loss for the present year, and for 1839—assuming that of 1838 as the basis of the calculation—will be about \$212,000 for each year. But in 1841, and 1842, when the duty has sunk to its minimum under the compromise act, the whole amount of the salt revenue will be unequal to the payment of these bounties and allowances. They will not only absorb the whole revenue from that article, but will require above \$100,000 to be taken from other branches of the revenue to make good the deficiency! The spectacle will then be exhibited of a population of seventeen millions of people, taxed in an article of prime necessity and universal consumption, not to support the Government, or to pay the debts of the Union, or for any purpose known to the constitution, but for the benefit of a single class of persons already enjoying a monopoly of the American market for fish, and proved, by their own returns, to be doing a better business than any other branch of industry, and to be actually improving, while so many other branches of business are declining.

Mr. B. here referred to the Massachusetts return of her fisheries, to show that this branch of business was doing well, and that it was not dependent upon national bounties to keep it alive. He showed that the cod and whale fishery yielded, upon an average, one hundred per centum on the capital employed in it during the fishing season of four months, and that each hand, for that short time, divided from \$300 to \$500; and he argued that this was an infinitely better reward for labor than agriculturists received in any part of the Union; and, therefore, that it was unjust to

tax the community to give a bounty to them. He also showed, from the annually increasing amount of the bounty paid, that it was an improving and thriving business. Upon these facts he argued against the gross injustice, as well as the utter unconstitutionality of doling out bounties from the Treasury to these fisheries under the pretence of refunding to them a salt duty, when all the other fisheries, and the beef and provision curers, and all the Union besides, paid this duty in full, and received no drawback.

Mr. B. said the bill which he had brought in to reduce all the drawbacks—the refined sugar, the rum, and the fishing bounties and allowances—in proportion to the reduction of the duties on which they depended, was a bill self-evidently just and proper, and one which justice, law, and the constitution, required to pass. The loss to the Treasury, from the three sources, must exceed \$300,000 this year. After 1842, this loss, if the present bill is not passed, must exceed a million of dollars per annum. In other words, the people of the United States are to be taxed in their sugar, salt, and molasses, to the amount of \$300,000 this year, and to the amount of a million in one or two years hence, for the mere benefit of a few dozen sugar refiners, a few hundred rum distillers, and a few thousand fishermen; each and all of which are proved to be doing a profitable business, and a thriving business, while almost every other branch of industry is suffering under the pressure and distress which the political, the gambling, and the insolvent part of the banks, have brought upon the country.

Mr. B. concluded his remarks with repeating the sentiment of the Editor of the New Hampshire Gazette, and applying it to the refined sugar and rum drawbacks, as well as to the fishing bounties and allowances, that the time had come when these subjects should be probed to the bottom—when each should be reduced in proportion to the reduced duty on which it rested—and when, if this cannot be done, we may despair of the Republic, and give it up, as a prey to a ravenous system of exclusive bounties, monopolies, and protection. Mr. B. here offered an amendment proposing the total repeal of the salt duty, and supported it at length.

Mr. ANDERSON observed that he did not rise to make a speech, but simply to say that he concurred entirely in the views presented by the distinguished Senator from Missouri. The amendment which that gentleman had offered to the bill now upon the table, opened a very wide field of discussion: it opened the investigation of interests that were perhaps in some respects of a sectional character, and in which the Senator from Massachusetts, (Mr. DAVIS,) now absent, took a deep interest. It would be remembered by the Senate, that the subject was presented to its consideration by the reports of the majority and minority of the

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Select Committee recently appointed to consider it, and that the minority report was drawn up by the Senator from Massachusetts who was now absent. He was, therefore, gratified that the Senator from Missouri proposed to pass over it, in order to wait the return of the Senator from Massachusetts, who, he presumed, intended to express his views on the subject. It was but an act of courtesy to wait this gentleman's return before taking up the bill for consideration; and when that opportunity should be offered, he should take occasion, as a member of the committee, to express his views also in relation to the interests it involved.

Mr. HUBBARD observed that the Senator from Tennessee (Mr. ANDERSON) had truly remarked that reports on this subject had been presented by the majority, as well as the minority of the committee; but it must be remembered that the Committee on Finance, in their report on the subject, had recommended that no action with regard to it should be had at the present session of Congress. He did expect, however, that the Senators from Missouri and Massachusetts, (Messrs. BENTON and DAVIS,) would express their views on it, and that then the subject would be permitted to rest. He calculated that these reports would go out silently to the community, and that, after their constituents had well considered the matter, members would come here better prepared to act at the next session. He was not before aware that the Senator from Missouri (Mr. BENTON) intended to bring this question before the Senate at the present session, for the purpose of having it fully debated. Such now he understood was his intention; and he also understood that such was the intention of the Senator from Tennessee. It was proper, therefore, that all the Senators should know it, in order that they might be prepared to meet the discussion. It was certainly not the intention of the Committee on Finance that this subject should be again brought up at the present session. For his part, he preferred that the people of the country should have full information on it before it was acted on, and that they should come prepared to discuss it at the next session, with a full knowledge of their views.

Mr. ANDERSON said he did not suppose that any thing he said would be misunderstood, or that his friend from New Hampshire had misunderstood him. It was the object of the Senator from Missouri, as well as his, that this bill should be taken up for discussion, and to express their views in relation to it. But as it was supposed that the Senator from Massachusetts took a deep interest in it, as he had made a report widely different from the bill, they deemed it but courteous to wait his return.

The Senate then adjourned.

MONDAY, May 4.

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Mr. WRIGHT explained the objects of the amendments. The first amendment was to strike out the appropriation of \$45,000, for the continuation of Clarke and Force's *Documentary History of the Revolution*. The object of the committee in moving to strike out this item was not to injure the publishers of this work, but to bring this matter to some definite understanding. It was time, the committee thought, for Congress to know to what extent this expense was to be carried. Besides, they thought this appropriation ought not to come in the general appropriation bill. The first thing that called his attention to this subject was, there having been sent to him some of these books, which he refused to receive. His principal object was to separate this troublesome subject from the general appropriation bill, to which it did not properly belong, and to let it rest on its own merits. Various efforts had been made by Congress to make an arrangement with those publishers, so as to come to some definite understanding with regard to the extent of this work; but always without success. Mr. W. wished the Senate to take the question on this amendment first; for if the Senate should not think proper to adopt it, the committee would withdraw the other amendments, which were not deemed of sufficient importance to delay the bill.

Mr. DAVIS opposed the amendment. He understood that there was an existing law of Congress under which this appropriation was made. He considered the work as one of great value, and that would hereafter be highly appreciated. He presumed that this appropriation was for the purpose of paying arrearages now due to the publishers, and adverted to the importance of fulfilling the obligations of a contract. He did not see any particular propriety in separating this object from the general appropriation bill, and he thought that if there was any thing due on the contract, it ought to be provided for in this bill.

Mr. WRIGHT then entered into a history of the contract, and the progress that had been made in the work, stating the efforts that had been made to put a stop to it, and the refusal of the Senate to receive any of the books.

Mr. HUBBARD said the time had come when it was necessary for the Senate to resist with firmness this appropriation. He well recollected what had taken place upon this very subject—and he could not but feel somewhat surprised at the course which had been pursued by these claimants. The Senate is now asked to appropriate forty-five thousand dollars to compensate Messrs. Clarke and Force for the second volume of the *Documentary History of the American Revolution*, recently published by them, and for a third volume which is in progress, and probably to be published before the

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next session of Congress. It has been said on this floor, that there is subsisting an abiding contract between the Government and these claimants. It has been said that that contract was entered into between them and the late Secretary of State, Mr. Livingston—and that in pursuance of that contract this amount of expenditure has arisen—and that Congress is now bound in honor and in good faith to make the appropriation. This, said Mr. H., I deny. Is there an abiding, and, for aught we know, a never-ending contract? Are these claimants at liberty to do what they please—collect such materials as may suit their convenience—publish what shall best please their taste—and claim what shall best promote their interest!—and is all this to be sanctioned under this pretended contract? Is there no supervisory power? Are we to learn from the inspection of the publication, for the first time, the character of the work? Are we to be told, when the volume shall be given to the public, that forty-five thousand dollars is required to meet the expense, and that all this is sanctioned by this pretended contract? If this be so, well indeed does that contract deserve the character which has been given to it on former occasions, by members of this Senate. He was now, as he was at the last session, opposed to this appropriation. In his judgment, it deserved to have no place in the general bill of supplies. If the claimants have a subsisting contract between them and the Government, that contract must be based upon the act of 1833. And what does that act require? Have the books been delivered agreeably to the express provisions of that act? Does the act require the State Department to estimate the amount of appropriation necessary to meet this expenditure? The act confers no such authority. Why is there not evidence here that the work has been examined and approved, and found to be in strict accordance with this alleged contract? He was aware that this appropriation had been proposed in the House as an amendment to the bill, by a member of the Committee of Ways and Means, and he believed that it was done in pursuance of a decision of that committee. And can it be possible, if there was a subsisting, legal, binding contract, between the Government and the claimants, and that the sum of forty-five thousand dollars would be necessary at this time for the partial, but faithful, execution of the terms of this contract, that Congress would not have been so advised, by those charged with the execution of the laws?

There is something wrong in this matter. There is at least some misconceptions, some misgivings, in relation to this subject. The claimants cannot be ignorant of the feeling and sentiment of the Senate. It has been repeatedly discussed, and the views and the votes of the Senate have been as repeatedly made known; and before the claimants should have asked a further appropriation under this alleged contract, they were, in equity, called upon to ask

of Congress an investigation into this whole business, and not to attempt to force the appropriation through, against the known and deliberate sense of the Senate. He would not be unwilling to render to them justice; but he should like to see them ready, on their part, to render justice. He had frequently examined the act of March 2, 1833, making provision for the Documentary History of the American Revolution. It was a most extraordinary act of legislation. By the terms of the act, it is true that the Secretary of State is authorized to contract with Matthew St. Clair Clarke and Peter Force, for the publication "*of a work*," entitled "The Documentary History of the American Revolution." It seemed to him, from the perusal of *this act*, that "the work" had previously been completed, and of course must have been submitted to the examination of the Secretary of State. *The work*, according to his version of the law, was to be printed in octavo or folio, as may be agreed upon. The expense of printing *the work* was fixed and determined, and the disposition of *the work* was to be made in the manner provided by the joint resolution of the 10th of July, 1832, for the distribution of the American State Papers. These are the material provisions of the act of Congress, under which this contract was entered into between Mr. Livingston and the claimants. Can any other view be taken of it than the one taken by himself? Is it possible that Congress, by that act, conferred upon the Secretary of State the power to make such a contract as would enable the claimants to publish what they pleased, and call it "A Documentary History of the Revolution?" Is it possible that Congress, by that act, gave to the Secretary the power to contract with these claimants to publish "*the work*" when they pleased? He utterly denied that such was a fair exposition of the power conferred by the act of March, 1833, upon the Secretary of State. He had also frequently examined the contract entered into between Mr. Livingston and these claimants, under date of the 19th of March, 1833. The act of Congress is correctly recited in that contract, and the contracting parties, in pursuance of the terms of the contract, had agreed that "*the work*" should be printed in folio, and they had fixed the rate of compensation at one cent and seven-tenths of a cent per page for each and every page of said work. But the material matter is, that there was no authority given to have any particular number of volumes printed, nor that each volume should contain any given number of pages. No such authority was conferred by the act upon the Secretary of State. In truth, the terms of that act clearly satisfy his mind, that the extent of "*the work*" to be published must have been known at the time the contract was made. It is true that the contract contained a clause purporting to give authority to Clarke and Force "*to prepare and publish fifteen hundred copies of said Documentary History of the Revolution*," "according to

the plan laid down in this memorial, and presented to Congress, upon which the act," *as is alleged*, was passed. He contended that this stipulation was unauthorized by the act itself. And it may be well to go a little further into this affair. By the terms of the act, the volumes were to be distributed in the same manner as was provided for the distribution of the American State Papers by the joint resolution of the 10th of July, 1832. He had examined that resolution; and according to its terms, the Secretary of the Senate and the Clerk of the House of Representatives are directed to distribute the compilation of documents directed to be published by "An act making provisions for a subscription to a compilation of Congressional documents." It will be found that that act was passed March 2, 1831, and gave authority to the Clerk of the House of Representatives to subscribe for seven hundred and fifty copies only. The joint resolution already referred to provided for the distribution of that number of copies, and of that number only. By that very resolution, after disposing of nearly two hundred copies to the Executive branch of the Government, and to the public library, it directs one copy to be given to each member of the Senate and House of Representatives of the 21st and the 22d Congress.

The act of March, 1833, directs the same distribution; but the contract entered into, as is alleged, under that act, provides for the publication of fifteen hundred copies of each volume. In his judgment, this contract was, in this respect, an entire departure from the terms of the act of Congress.

In the session of 1834, the attention of Congress was called to this matter. It will be found that, in the general appropriation bill of that year, the following provision was inserted:

"For the Documentary History of the Revolution, per act of March 2, 1833, twenty thousand dollars; and it shall be the duty of the Secretary of State to examine the contract entered into by Edward Livingston, late Secretary of that Department, with Matthew St. Clair Clarke and Peter Force, for the collection and publication of the Documentary History of the American Revolution, and make a special report thereon at the next session of Congress, setting forth the nature and character of the materials of which the work is to be composed, and the progress made in the work; the number of volumes which will be required to complete it; and an estimate of the money which may be necessary to appropriate for the fulfilment of the contract."

The present Secretary of State made a report to Congress, and that report is to be found among the Executive documents of the second session of the Twenty-third Congress. He trusted that the Senate would well examine that report, and all subsequent proceedings, before they gave their assent to the appropriation of another dollar for the execution of that alleged contract. It so happened that this first appropriation was carried to the surplus fund, and

that, in the appropriation bill of 1838, the same sum was reappropriated. But it is, he trusted, within the recollection of every Senator, that certain proceedings took place in 1836, in the House of Representatives, with a view to the rescission of this contract.

There was another piece of history in relation to this matter, to which he must advert. At the very last session of Congress, and almost at the last hour of the session, an appropriation was inserted to complete the payment for the first volume, which had been published, and which provided that the volumes should be distributed, not in strict accordance with the joint resolution of July, 1832, but also to each member of the House of Representatives of the Twenty-third, Twenty-fourth, and Twenty-fifth Congresses. Here, then, is a recent instance of legislation of voting books, without the sanction of pre-existing law, directly into the hands of members themselves passing the vote. He desired to make no comment upon this matter. The fact was before the American people, and he trusted they would not fail to express their opinion upon such acts of their public servants. He well recollected how all this took place. This appropriation was inserted in the general bill of supplies. The House was kind enough to make a tender to the Senators of the books. The Senate amended the bill by striking out the appropriation. The House disagreed to the amendment. The Senate insisted. A committee of conference was the result; and that committee agreed on a report; and he was satisfied that that report was accepted by the Senate to save the bill. It was as follows:

"For the balance due on account of the first volume of the Documentary History of the United States, five thousand six hundred and two dollars; and the Secretary of State is hereby authorized to deliver to the Clerk of the House of Representatives, three hundred and sixty-eight copies of said work, to be distributed to each of the members of the House of Representatives of the Twenty-third, Twenty-fourth, and Twenty-fifth Congresses, who are not entitled to receive the same under former resolutions of acts of Congress."

These facts must have all been familiar to the claimants. It is in the power of Congress to refuse the appropriation. This they ought to do, if, in their judgment, the contract was entered into by inadvertence, or by mistake; or if there has been any proceeding not warranted by the act itself, then it will be time for Congress to hear the memorialists and to make indemnity. But, for one, he was prepared to say that he should most reluctantly give his vote now for the bill, if it contained such an appropriation. He would not say that he should vote against it; but he hoped that the House would concur with the Senate in their proposed amendment, and that some proceeding should be at once introduced for the purpose of settling and adjusting this controversy.

Mr. BERRON said this was a continuation of the book-making business by Congress, which

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had grown up within the last eight or ten years. This was one branch, and the most important; the others, more insignificant, had been stopped; but this, the most enormous and flagrant, was continued by its own momentum. He had hitherto classed this as one of the greatest frauds ever perpetrated on our Government.

The question was then taken, and the amendment was agreed to, as follows:

YEAS.—Messrs. Allen, Anderson, Benton, Brown, Calhoun, Cuthbert, Hubbard, King, Lumpkin, Moulton, Nicholas, Norvell, Pierce, Robinson, Sevier, Sturgeon, Tappan, Wall, Williams, and Wright—20.

NAYS.—Messrs. Clayton, Davis, Dixon, Knight, Prentiss, Ruggles, Smith of Indiana, and Tallmadge—8.

The other amendments were agreed to, ordered to be engrossed, and the bill ordered to a third reading.

*Documentary History—Rescinding the Contract.*

Mr. HUBBARD submitted the following joint resolution:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That a joint committee be appointed for the purpose of ascertaining and examining into the facts having relation to the claim of Messrs. Clarke and Force for compiling and publishing two volumes of the Documentary History of the Revolution of the United States, under a contract (as they allege) entered into between them and Edward Livingston, late Secretary of State, with a view of putting an end to the further publication of said work at the expense of the United States; and that said committee be instructed to ascertain from said Clarke and Force, and from other sources, what sums shall be paid to indemnify them for what they have already published, under the alleged contract, and what further sum should be paid to them for any actual expense incurred in collecting materials, under said alleged contract; and that said committee be authorized to send for persons and papers, and that they report the facts and the gross amount to both Houses of Congress with as little delay as practicable.

Mr. TAPPAN moved to amend the resolution, by adding the words, "if any thing should be found legally due."

Mr. KING hoped that his friend from Ohio would not press his amendment. He, as every Senator was aware, was utterly opposed to this contract from the beginning; he had refused to receive the volumes which had been sent to him; but he was willing to give the gentlemen concerned in it, not only what they had actually paid out, but to give them a fair compensation for collecting information in relation to the Revolutionary history of the country from Europe and elsewhere. He hoped the resolution would take the widest range, and that a liberal compensation would be made to the publishers for any expense or labor they had already incurred. He should vote for the resolution in its present shape, but he very much doubted if it would do any good if the opinion was expressed that there was no legal obliga-

tion on Congress to make any further payments.

Mr. TAPPAN said if there was no legal obligation on Congress, he should not vote for paying any thing. The work commenced in a fraud, and was carried on by men legislating to get themselves libraries out of the public Treasury. This was a fraud on the Treasury, and these publishers knew it at the time the act was passed, as well as he did. They knew that the constitution gave members of Congress no right to supply themselves with books at the public expense, and, therefore, in carrying on this work, they did it with their eyes open, at their own risk. If there was any thing due these men in point of law, he was willing to pay for it; but he could not agree to the principle advanced by his friend from Alabama, that they were bound to pay, because there had been a combination to cheat the Government.

Mr. BUCHANAN observed that he was as anxious to get clear of this contract as any other man; but at the same time he was anxious that Congress should get clear of it by doing what he conceived to be justice and equity on their part. Now, it could not be denied, because the recorded evidence was before them, that this contract was entered into with these individuals under an express act of Congress; and it was too late now for them to say, with the honorable Senator from Ohio, that the Congress of the United States had no right to pass such a law. He should not enter into the constitutional question, but it certainly would not be fair, after the expense had been actually incurred by these individuals under the contract, to refuse payment upon the plea, whether well or ill founded, that we had no right to authorize the Secretary of State to make such a contract. In this case he had no doubt that Mr. Livingston altogether misapprehended the extent of the obligation he was incurring, and, indeed, he presumed that no member of Congress, at the time, had any idea that the contract would ever involve any thing like the amount of expense that they now saw it would. Nevertheless, they had got themselves into the difficulty, and how they were to get out of it was the question? By raising a legal question? No; but by pursuing the course that had been pointed out by the Senator from New Hampshire and the Senator from Alabama.

Let us (continued Mr. B.) pay them fairly—let us give them a just indemnity for the expenses they have incurred and the labor they have performed. He would not go to the extent of the profits they might imagine themselves entitled to, but he was for giving them a fair and even liberal indemnity. For his own part, he had felt rather inclined, as they would eventually be bound to pay for the two volumes already published and the one now in progress, to let the appropriation pass as it stood in the bill, if such had been the pleasure of the Senate. The work had been done under a law which is still in existence, and it would be in vain for



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them to say that Congress had no right to pass the law. Mr. B. concluded by saying that he was for paying for what had been done, and getting rid of the contract.

Mr. SEVIER would prefer that the resolution should be amended so as to make it a resolution of the Senate simply; and then there would be a chance of doing something in the premises; but even if passed here in its present shape, there would be but little probability of its being acted on by the House.

Mr. HUBBARD said, that then the responsibility would rest with that body, but the joint action of the two Houses was necessary to do any thing efficient on this subject.

After some further remarks from Messrs. TAPPAN, SEVIER, and PRENTISS,

The resolution was read a third time, and passed.

Adjourned.

THURSDAY, May 7.

*Expenses of the Government.*

The CHAIR submitted a report from the Secretary of the Treasury, in compliance with a resolution of the Senate of the 24th April.

On motion of Mr. BENTON, the letter of the Secretary, and the tables, were ordered to be printed. He wished a large number to be printed; but would not suggest any particular number until he had first given to the Senate some view of the papers themselves, and thus shown them to be worthy of the most ample multiplication, and of the most extensive diffusion.

Mr. B. then opened the tables, and explained their character and contents. The first one (marked A) consisted of three columns, and exhibited the aggregate, and the classified expenditures of the Government from the year 1824 to 1839, inclusive; the second one (marked B) contained the detailed statement of the payments annually made on account of all temporary or extraordinary objects, including the public debt, for the same period. The second table was explanatory of the third column of the first one; and the two, taken together, would enable every citizen to see the actual expenditures, and the comparative expenditures, of the Government for the whole period which he had mentioned.

Mr. B. then examined the actual and the comparative expenses of two of the years, taken from the two contrasted periods referred to, and invoked the attention of the Senate to the results which the comparison would exhibit. He took the first and the last of the years mentioned in the tables—the years 1824 and 1839—and began with the first item in the first column. This showed the aggregate expenditures for every object for the year 1824, to have been \$31,898,588 47—very near thirty-two millions of dollars, said Mr. B., and if stated alone, and without explanation, very capable of astonish-

ing the public, of imposing upon the ignorant, and of raising a cry against the dreadful extravagance, the corruption, and the wickedness of Mr. Monroe's administration. Taken by itself, (and indisputably true it is in itself,) and this aggregate of nearly thirty-two millions is very sufficient to effect all this surprise and indignation in the public mind; but, passing on to the second column to see what were the expenditures, independent of the public debt, and this large aggregate will be found to be reduced more than one half; it sinks to \$15,380,144 71. This is a heavy deduction; but it is not all. Passing on to the third column, and it is seen that the actual expenses of the Government for permanent and ordinary objects, independent of the temporary and extraordinary ones, for this same year, were only \$7,107,892 05; being less than the one-fourth part of the aggregate of near thirty-two millions. This looks quite reasonable, and goes far towards relieving Mr. Monroe's administration from the imputation to which a view of the aggregate expenditure for the year would have subjected it. But, to make it entirely satisfactory, and to enable every citizen to understand the important point of the Government expenditures—a point on which the citizen of a free and representative Government should be always well informed—to attain this full satisfaction, let us pass on to the second table, (marked B,) and fix our eyes on its first column, under the year 1824. We shall there find every temporary and extraordinary object, and the amount paid on account of it, the deduction of which reduced an aggregate of near thirty-two millions to a fraction over seven millions. We shall there find the explanation of the difference between the first and third columns. The first item is the sum of \$16,568,898 76, paid on account of the principal and interest of the public debt. The second is the sum of \$4,891,886 56, paid to merchants for indemnities under the treaty with Spain of 1819, by which we acquired Florida. The third is \$5,510 27 paid to States for claims on account of war debts. The fourth is \$47,714 53 for the three per centum to the new States on the lands sold within their limits. The fifth is \$17,000 on account of the two per centum to the Cumberland road. The sixth is \$4,873 19 for the survey of the coast. The seventh is \$423,342 46 for collecting materials for the gradual increase of the navy, and the improvement of the navy yards. The eighth is \$180,809 67 for durable public buildings. The ninth is \$429,972 04 for bridges and fortifications. The tenth is \$56,955 99 for roads, canals, and breakwaters, and improvements in rivers and harbors, except the Cumberland road, which was stated by itself. The eleventh is \$171,155 43 for providing arms for the militia of the United States, and for arming the fortifications. The twelfth is \$1,267,600 41, for all pensions, except those of invalids. The thirteenth is \$429,987 90 for purchasing land from Indians, and paying for Indian

depredations. The thirteenth, and last item, is the sum of \$396,960 21 for miscellaneous objects, and for property lost, or injuries committed, during hostilities with any power. The total of all these items, except the public debt, is \$8,222,252 66. This total, added to the sum paid on account of the public debt, makes close upon twenty-five millions of dollars; and this, deducted from the aggregate of near thirty-two millions, leaves a fraction over seven millions for the real expenses of the Government—the ordinary and permanent expenses—during the last year of Mr. Monroe's administration. This is certainly a satisfactory result. It exempts the Administration of that period from the imputation of extravagance, which the unexplained exhibition of the aggregate expenditures might have drawn upon it in the minds of uninformed persons. It clears that Administration from all blame. It must be satisfactory to every candid mind. And now let us apply the test of the same examination to some year of the present Administration, now so incontinently charged with ruinous extravagance. Let us see how the same rule will work when applied to the present period; and, for that purpose, let us take the last year in the table, that of 1839. Let others take any year that they please, or as many as they please: I take one, because I only propose to give an example; and I take the last one in the table, because it is the last. Let us proceed with this examination, and see what the results, actual and comparative, will be.

Commencing with the aggregate payments from the Treasury for all objects, Mr. B. said it would be seen at the foot of the first column in the first table, that they amounted to \$37,129,396 80; passing to the second column, and it would be seen that this sum was reduced to \$25,962,797 75; and passing to the third, and it would be seen that this latter sum was itself reduced to \$13,525,800 18; and, referring to the second table, under the year 1839, and it would be seen how this aggregate of thirty-seven millions was reduced to thirteen and a half. It was a great reduction; a reduction of nearly two-thirds from the aggregate amount paid out; and left for the proper expenses of the Government—its ordinary and permanent expenses—an inconceivably small sum for a great nation of seventeen millions of souls, covering an immense extent of territory, and acting a part among the great powers of the world. To trace this reduction—to show the reasons of the difference between the first and the third columns, Mr. B. would follow the same process which he had pursued in explaining the expenditures of the year 1824, and ask for nothing in one case which had not been granted in the other.

1. The first item to be deducted from the thirty-seven million aggregate, was the sum of \$11,146,599 05 paid on account of the public debt. He repeated, on account of the public debt; for it was paid in redemption of Treas-

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ury notes; and these Treasury notes were so much debt incurred to supply the place of the revenue deposited with the States, in 1836, or shut up in banks during the suspension of 1837, or due from merchants, to whom indulgence had been granted. To supply the place of these unattainable funds, the Government went in debt by issuing Treasury notes; but faithful to the sentiment which abhorred a national debt, it paid off the debt almost as fast as it contracted it. Above eleven millions of this debt was paid in 1839, amounting to almost the one-third part of the aggregate expenditure of that year; and thus, nearly the one-third part of the sum which is charged upon the Administration as extravagance and corruption, was a mere payment of debt!—a mere payment of Treasury notes which we had issued to supply the place of our misplaced revenue. This item being deducted from the 37 millions, reduces it to 26.

2. The second item to be deducted is stated in the table under the description of trust funds; and consists of moneys received in trust for the Chickasaw Indians, and other Indians, on the sale of their lands, for which the United States act as their agent and treasurer. It amounts to near a quarter of a million, to wit, \$240,694 for the year 1839; but for the three preceding years averaged a million and a quarter, and contributed largely to swell the expenditures, as they were termed, of 1836, 1837, and 1838. This item had no existence in the year 1824; so that it becomes a new charge, apparently, upon the Treasury; but in reality no charge at all, as it was only delivering over to Indians the money which had been received for them, and belonged to them. Yet this item, amounting to nearly four millions in the last four years, is set down to the reckless extravagance of a mad and ruinous Administration.

3. The third item to be deducted is the sum of \$717,552 27, for indemnities; that is to say, for moneys recovered from foreign nations, under Gen. Jackson's administration, for merchants who had been plundered under previous Administrations—whose money, when received, had gone into our Treasury, and was afterwards paid out to the rightful owners as their respective rights were ascertained. The payment for 1839 was near three-quarters of a million; but for the three previous years they amounted in the whole to about five and a half millions; and, according to the accusation of the Opposition gentlemen, constituted so much of the horrid extravagance of those years! and here let us mark the difference between the present times and those of 1824. When, in that year, the sum of near five millions was paid out of the Treasury for indemnities to merchants under the Florida treaty, no one ever thought of making the people believe that it was a part of the expenses of the Government. No one ever thought of censuring the Administration about it. These conceptions have been reserved for the present day.

Now, for the first time in the history of our country, or perhaps of any country, the recovery of indemnities from foreigners, and their payment to our own citizens, becomes a dreadful extravagance—a ruinous waste of money—for which a mad and profligate Administration must be thrust from power!

4. The fourth item is a small sum of \$875 50 for claims of States on account of expenditures for the general benefit during the late war. It was a payment of debt, and not an expense of Government, and though small in 1839, it had been considerable in the three preceding years, amounting in that time to about \$230,000; and, of course, swelling by that much the aggregate expenditures of those years, and helping to make up the monstrous extravagance of which the country heard so much.

5. The next item grows out of the three per centum fund to the new States on the amount of the lands sold within their limits. It is due to the States by compact, as a consideration, and a most inadequate one it is, for not taxing the Federal lands. For the year 1839, this item amounted to \$63,670; and, being a debt due to the States, is no part of the Government expenses. For the three previous years, when the land sales were at the largest, and when some of the States had neglected for some years to draw their money, the payments on this account amounted to near one and a half millions of dollars; and, of course, swelled to that amount the *extravagance* of 1836, '37, and '38! In the year 1824, this item was only \$47,714.

6. The sixth item to be deducted was nearly allied to the former. It was \$198,530 for the two per centum on the sales of the public lands to make roads to the new States, and applicable to the Cumberland road. In the year 1824 it was only \$17,000; but in the great sales of 1835, '36, and '37, it amounted to near \$1,200,000. Here again was a payment of a debt converted into wasteful extravagance!

7. Donations of money to, or payments on account of, the District of Columbia, was the seventh item of deduction which Mr. B. mentioned. It amounted to \$126,374 for the year 1839. It was a new item in the list of Government payments, having no existence in 1824, nor until the year 1832. After that time it had been annual, and as high as \$313,000 in one year, to wit, 1833, and for the years 1836, '37, and '38, amounted to near \$440,000. It was a gratuity to the District, which has no political rights; and it was a gratuity which had no other object than to relieve it from burthens improvidently contracted; yet received the usual character of corrupt extravagance.

8. The survey of the coast was the eighth item which Mr. B. explained. It was a temporary and extraordinary object, which had grown up from a trifle to a large amount within a few years past, and amounted to \$91,995 for the year 1839. Previous to Gen. Jackson's administration it rarely exceeded two thousand

dollars per annum; for the years 1836, '37, and '38, it amounted to about \$220,000.

9. Duties refunded to merchants was another of the new and large items which had lately grown up among our Treasury payments. From 1824 to 1832, it was unknown; yet in 1839, it was \$179,304; in the year 1833, it was \$701,000, and for 1836, '37, and '38, it amounted to above \$800,000. This was a favor, or an act of justice to merchants, granted by acts of Congress, or by judicial decisions, or by reversal of previous constructions of the laws. It is no part of the Government expenditure, though, being refunded from the Treasury, it goes into the enumeration to swell the general aggregate—to swell the cry of extravagance—and to prove the hostility of the Administration to merchants!

10. A tenth item to be deducted was the sum of \$714,857 for collecting materials for the increase of the navy. This was an expenditure for the future defence of the country, and averaged about \$800,000 per annum since the commencement of General Jackson's administration, though only \$423,000 in 1824. It is clearly no part of the expenses of Government, but an outlay of money for the benefit of after years, and of posterity.

11. Permanent public buildings is another of the large items of recent expenditures. Formerly these buildings were of perishable materials, and sunk under the decay of time, or the ravages of fire; for some years past durable materials had been selected, and fireproof edifices constructed. The expenditure for this purpose in 1839, was \$1,248,044, and near the same for the three preceding years. This again was an expenditure for the benefit of posterity, and not chargeable as an expense upon the actual Administrations.

12. The sum of \$735,570 for bridges and fortifications, was the twelfth item which Mr. B. pointed out for deduction, being both of them expenditures for the benefit of posterity; the expenditure extraordinary and temporary, but the benefit general and permanent.

13. The sum of \$1,491,000 for the improvement of rivers, harbors, and roads, exclusive of the Cumberland road, was another expenditure of the same character. In 1824, it was but \$56,955; but took a start then which would have known no bounds had it not been for the Mayesville veto.

14. Providing arms for the militia of the States and cannon for the forts is another expenditure for future times and for posterity. It amounted to \$474,906 from 1839, and averaged above half a million a year for each of the three preceding years. In 1824, it was but \$171,155.

15. Pensions, except those to invalids, was the next item noted by Mr. B. for deduction. They were gratuities from the Treasury, and not an expense of Government. They amounted in 1839 to \$3,038,764, being near three times

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what they were in 1824. They had been an enormous drain upon the Treasury for the last seven years, amounting in 1833 to \$4,485,000, and subsequently averaging about half that sum.

16. Purchase of lands from Indians was another large item to be deducted, and which had vastly increased of late. In 1824, this head of expenditure only amounted to \$429,987; in 1839 it was \$1,708,123; in 1836 it was as high as three millions; in 1837, \$2,484,000; and in 1838, it was \$4,603,518. These were heavy expenditures, incurred for the great object of relieving all the States from the incumbrance of an Indian population; but though heavy, it is not money gone from the Treasury never to return to it. It all returns, and with profit, in the sale of the lands acquired; yet the vast sums paid on this head, is cited against us as ruinous extravagance, for which the Goths should be driven from the Capitol!

17. Removal of Indians and their wars was another item nearly connected with the last, and subject to the same remarks. It had grown up of late, and was directed to the good of the States. In 1824 it was nothing; in 1839 it was \$1,775,914. In the three preceding years it was, respectively, in round numbers, \$6,000,000, \$6,500,000, and \$5,500,000. This is one of the largest heads of increased expenditure in recent years, and one of the most indispensable for the States of the South and West. It is appurtenant to the purchase of the Indian lands; and, although large, yet the sales of the lands will far more than reimburse it.

18. And, finally, Mr. B. noted the sum of \$232,369 for miscellaneous objects, not reducible to a precise head, which swelled the list of expenditures, without belonging to the expenses of the Government.

19. The Exploring Expedition was the last of the items. It was of recent origin, amounting to \$97,968 in 1839, and to about \$560,000 for the three preceding years.

These are the eighteen heads of extraordinary expenditure, said Mr. B., and the amount expended for each; and now let gentlemen of the Opposition say for which of these they did not vote, to which they now object, and for which they will not vote again at this session?

With this view of the tabular statements Mr. B. closed the examination of the items of expenditure, and stated the results to be a reduction of the 37 million aggregate in 1839, like that of the 32 million aggregate in 1824, to about one-third of its amount. The very first item, that of the payment of public debt in the redemption of Treasury notes, reduced it 11 millions of dollars: it sunk it from 37 millions to 26. The other eighteen items amounted to \$12,656,977, and reduced the 26 millions to 13½. Here then is a result which is attained by the same process which applies to the year 1824, and to every other year, and which is right in itself; and which must put to flight and to shame all the attempts to excite the country with this bugbear story of extravagance. In

the first place the aggregate expenditures have not increased threefold in fifteen years; they have not risen from 18 to 39 millions, as incessantly asserted by the Opposition; but from 32 millions to 37 or 39. And how have they risen? By paying last year 11 millions for Treasury notes, and more than 12 millions for Indian lands, and wars, removals of Indians, and increase of the army and navy, and other items as enumerated. The result is a residuum of 13½ millions for the real expenses of the Government; a sum 1½ million short of what gentlemen proclaim would be an economical expenditure. They all say that 15 millions would be an economical expenditure: very well! here is 13½! which is a million and a half short of that mark.

The authentic tables show that the aggregate expenditures for 1824, came within five millions of those of 1839; consequently that, without a deduction for extraordinary expenditures, the charge of extravagance, waste, ruin, profligacy, &c., might have been raised against the Administration of that day, and some uninformed persons excited against it by a groundless clamor; yet no one thought of raising such a clamor in 1824. No one then thought of charging, as extravagance, payments on account of the public debt, and for indemnities to merchants, and other extraordinary expenses. Then all parties made the proper deductions for payments either temporary or extraordinary in their nature. No one sought to mystify or to impose upon the ignorant. No one thought of palming a story of thirty-two millions upon the country as the *expenses* of the country. All that has been reserved for the present times; it has been reserved for our day; and may have been attended for a while with the ephemeral success which crowns for a moment the petty arts of delusion practised upon the ignorant. But the day for this delusion has gone by. The classified tables, now presented, will reach every citizen, and will clear up every doubt. They will enable every citizen to see every item of expenditure—to judge it himself—and to demand of the Opposition gentlemen, if they did not vote for it themselves, and if they now object to it? Taking the extraordinary items as they rise, and beginning with the first, the sum of eleven millions paid for redemption of Treasury notes; and it can be demanded if that payment was not right? and so on through the whole list, amounting to twelve and a half millions. The ordinary and permanent expenses, amounting to thirteen and a half millions, no one objects to: all admit that that sum is a million and a half within the mark of meritorious economy. It is on the extraordinaries—it is on the difference between thirteen and a half and thirty-seven millions—that the attack is made; and now we produce these extraordinaries. We give a list of them, item by item, with the amount paid on account of each; and call upon the gentlemen of the Opposition to name the

one to which they object? to name the one for which they did not vote? This is what we do; and I will tell you, Mr. President, what they will do: they will not name one item to which they now object, or against which they voted! They will not name one; and the reason is, because they cannot! They voted for all—they approve all—the country will approve all, except part for pensions and harbors, and of these the Opposition were the leading advocates. And thus these gentlemen of the Opposition are presented in the extraordinary light of going abroad to make a general denunciation of the Administration for extravagant expenditure; and when we show them the bill of particulars, and ask of them to point out the extravagant items, or the ones for which they did not vote, *they will remain silent!* They will name no item, because they cannot.

Mr. B. said that this Administration, and that of General Jackson, were ready for a comparison with any that preceded them. Aggregates against aggregates, or items against items, they were ready for the comparison. If any one shall say that the expenses of the Government were thirty-seven millions in 1839, or thirty-nine millions in 1838, we answer that this is only five or seven millions more than the aggregate of 1824; that the aggregate was then thirty-two millions, and the increase is only in proportion to the increase of the country. If, descending from aggregates and going into items, it is said that sixteen millions must be deducted from the aggregate of 1824 for payments to the public debt, and eight millions more for indemnities and other extraordinaries, we answer that eleven millions must be deducted from the aggregate of 1839 for redemption of Treasury notes, and twelve and a half millions more for Indian wars, treaties, and removals, and a dozen other extraordinaries. This brings the thirty-seven down to thirteen and a half; and at that point complaint ceases.

Mr. B. said the tables which were presented treated every Administration alike. Beginning in the last year of Mr. Monroe, they came down through the term of Mr. Adams, and the two terms of General Jackson, and the three years which had elapsed under Mr. Van Buren. All were treated alike. The same rule was applied to the expenditures under each one. The aggregate was given in every case first; and then the extraordinary, separated from the ordinary expenditures, and the same items charged and credited in every case. In looking at the aggregates, it will be seen that every Administration needed this classification; that the aggregate under Mr. Adams' administration was not thirteen millions, as repeated so many millions of times, but about the double of that! and that this thirteen millions for that gentleman's administration was only attained by deducting extraordinaries! by going through the very process which reduces the expenditure under Mr. Van Buren to thirteen and a half millions.

The smallest aggregate in the whole table is that of 1835, under Gen. Jackson's administration, when the public debt had ceased, and the Indian wars had not begun. The aggregate for that year is seventeen millions and a half. Even including the extraordinaries of that year, and the aggregate was but seventeen millions and a half! And so it will be again. As soon as we are done paying the Treasury notes, which are issued in lieu of our misplaced revenue, and as soon as our Indian troubles are over, and the payments completed for removal of Indians, and purchase of their lands, the aggregate expenditures will come down to about what they were in 1835; and the ordinary expenses will be within fifteen millions.

Mr. B. demanded who ever deemed it an expense of the Government, when Mr. Jefferson purchased Louisiana at fifteen millions of dollars? And who could think of charging as an expense the large sums which had been lately paid in extinguishing Indian titles, and in removing Indians? One would as soon think of charging, among the expenses of a family, the outlay which should be made by a prudent and thrifty farmer in purchasing additional land, and inclosing it with fences, or covering it with improvements. The extinction of the Indian titles—the acquisition of their lands for settlement and cultivation—and the removal of the Indians themselves from all the States, was one of the great measures which illustrated General Jackson's administration, and was beneficial both to the Indians and to the States. So great an object could not be effected without a large expenditure of money; and who is there now to stand up and condemn the Administration for this expenditure? Who wants these Indians back? Who wants Georgia, Alabama, Mississippi, and all the other States, again encumbered with the Indians which have left them?

That the expenses of the Government had increased in the last twelve or fifteen years, Mr. B. said was just as certainly true as it was naturally to have been expected. The country itself had increased in that time: several new States had been admitted into the Union, and several new Territories had been created. An additional impetus had been given to the public defences in the increase of the army and navy—wars with several Indian tribes had intervened—vast purchases of Indian lands had been effected—whole tribes, nay, whole nations of Indians, had been removed, and removed to a vast distance, and at a vast expense. This latter expenditure was chiefly for the benefit of the South and West; but where is the man in any quarter of the Union that can stand up and condemn it?

Sir, I admit an increased expenditure; and, far from concealing, I exhibit and proclaim it. I display the items; they are spread out in the statements now under discussion; I point them out to the country. I say they will be found, principally, in the navy—in the army—in the

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General Appropriation Bill—Documentary History.

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Indian department—in the pensions—in the light-house establishment—in Indian wars—in the defence of the frontiers, North and West—in fortifications—in preparing arms and munitions of war—in the legislative department—in permanent and durable fire-proof public buildings—and in assuming the foreign debt, and making other expenditures for the District of Columbia. In these branches of the service will the increases be principally found, and I supported them all except the increase for pensions, harbors, some of the light-houses, and the book-printing part of the legislative expenses. I supported all except these: but the gentlemen of the Opposition supported all that I did, and these besides; and now go forth to raise a cry of extravagance!

Mr. B. said the Opposition not only voted for these increased expenditures, but in some instances greatly augmented them. This was the case in the Indian expenditures, and especially among the Cherokees. The Opposition sat themselves up for the guardians of these Indians: they seemed to make political alliance with them. The Indians became parties to our politics; the Opposition became allies to them; and the result was double trouble, and double expense, and double delays, and double vexation of every kind with those Indians; until it required a military force to compel them to comply with treaties which gave them millions more than they ought to have received!

The Opposition not only voted for all the increases, and caused some of them to be augmented, but they attempted many enormous expenditures which the Democratic members opposed and prevented. Let any one look to the bills which were rejected, either in the Senate or in the House of Representatives; let any one look to the number of these bills, and the tens of millions, in the aggregate, with which they were freighted, and then say what the expenses would have been if the Opposition had been in power. One of these bills alone, the French spoliation bill, was for five millions of dollars; others were for vast sums, especially the harbor bills. They were rejected by the votes of Democratic members; and if they had not been—if they had passed—they would have swelled the thirty-seven to near fifty millions; and would have been charged upon us as reckless, wasteful, horrible extravagance.

Mr. B. then appealed to Senators of the Democratic party to name the number of extra copies of the report which they would propose to print, professing himself ready to agree to any number that was satisfactory to his friends.

Mr. HUBBARD proposed thirty thousand.

Mr. BENTON accepted the proposition, and moved that thirty thousand extra copies of the report be printed for the use of the Senate.

This motion gave rise to a very interesting and animated discussion, in which Messrs. BROWN, HUBBARD, CALHOUN, and BUCHANAN, advocated, and Messrs. PRESTON, SOUTHARD,

CLAY of Kentucky, and WEBSTER, opposed the motion.

The question being then on printing thirty thousand extra copies of the report, it was agreed to, as follows:

YEAS.—Messrs. Allen, Anderson, Benton, Brown, Buchanan, Calhoun, Clay of Alabama, Cuthbert, Fulton, Hubbard, King, Lumpkin, Nicholas, Norvell, Pierce, Roane, Robinson, Sevier, Sturgeon, Wall, Williams, and Wright—22.

NAYS.—Messrs. Clay of Kentucky, Clayton, Davis, Dixon, Henderson, Knight, Porter, Prentiss, Preston, Ruggles, Southard, Tallmadge, Webster, and White—14.

The Senate then adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, May 7.

#### Documentary History.

On motion of Mr. ATHERTON, the House took up the bill making appropriations for the civil and diplomatic expenses of Government, to consider the amendments made to that bill by the Senate.

The two first, which were merely formal, were concurred in. The third amendment proposed to strike out the item appropriating 45,000 dollars for the Documentary History of the American Revolution.

Mr. ATHERTON moved that the House concur with the Senate in the amendment; and he went into a long and critical examination of the contract, and the law under which it had been made, and urged the concurrence of the House in the amendment, with a view to have an inquiry instituted into all the circumstances of the case, so that the House might act understandingly. He disapproved of the manner of the distribution. If the work was to be progressed with, he was understood to be in favor of its distribution to public libraries of the country, instead of the members of the Twenty-fourth, Twenty-fifth, and Twenty-sixth Congresses, as provided for in the resolution, authorizing the distribution. There was no provision for extending the distribution to the present or future Congresses. He was understood to say that, by the terms of the contract, the publishers were unlimited as to the size of the volumes. There had been no person appointed by the Government to superintend the publication; but that the contractors had the authority to go on and publish all the newspapers published in the country at that time. He maintained that the proper course would be for the House to concur in the amendment of the Senate, and have a committee of inquiry to investigate the nature of the contract; and to enable such a committee to come to a correct conclusion, it would be necessary to examine many and voluminous documents. There was not then sufficient time afforded to make an examination, such as would justify the House

in voting for the appropriation in this bill. They should vote understandingly when they do vote; but the exigency which calls for immediate action on the bill, could not afford sufficient time to bring them to a proper understanding of the subject. It was not his intention to do injustice to the contractors, but was willing to give them the benefits of the contract, so far as it was understandingly entered into, and acted upon. He thought a committee of inquiry, to ascertain whether the prices were conformable to the resolution, and whether the contract was legal, was right and proper. He was understood to say, that by a letter of the Secretary of State, it would appear that a saving of \$200,000 might be effected on the publication, by an investigation of the matter. Notwithstanding the number of volumes was limited to twenty, which was estimated to cost about \$500,000, yet there was no limitation to the number of pages in the volume, and they might be increased to such an extent as could make the work cost \$1,000,000. He did not believe that the members of Congress, who voted to authorize the contract, believed that they were voting for the distribution of a million of dollars, in books, among themselves, and their successors. He then read a report of the Committee of Ways and Means, at a former Congress, showing that the prices paid were not in conformity to the act of Congress. He then read the act on which the prices were based, and a brief history of the proceedings of Congress in relation thereto, in proof of his position.

Mr. EVANS spoke in reply, referring to former discussions in the House on this subject, and contending that Congress was bound by the contract, and must fulfil it. He considered the objections advanced by Mr. ATHERTON as involving the integrity of Congress and the capacity and knowledge of the late Mr. Livingston, (with whom the contract was made,) and repelled with warmth the charge that Messrs. Clarke and Force had been guilty of any fraud or impropriety whatever. He went into a recapitulation of the whole matter from the beginning: insisted that the contractors had fully complied with their engagements; stated that the work had been printed, and delivered, and received at the Departments; and remonstrated with earnestness against the proposed refusal to appropriate money to pay for it. He had no objection to a committee of inquiry, if gentlemen thought it expedient; but, in the mean time, there was no reason why the sum now justly due should not be appropriated. He quoted the opinions of Mr. Livingston on the work, and scouted the idea advanced by Mr. ATHERTON that it was useless, and would never be read. He adverted to the vast expense incurred by other nations in illustrating their past history, and the honors and profits conferred on those who collected and preserved the monuments of that history for posterity. The present work was limited in its extent, was worth

more by far than all its cost; and would be an invaluable contribution to the libraries of our public literary and political institutions.

Mr. E. said that it was at the instance of the Secretary of State that Messrs. Clarke and Force memorialized Congress. They sent in, accompanying this memorial, the correspondence between the Secretary and themselves, directing the matter as minutely as it could be. They then stated to Congress that the work was of such magnitude, so large and expensive, that it could never be undertaken by private individuals. They gave Congress proper warning, and yet gentlemen came forward to make an impression that these gentlemen had used some deception. They even memorialized Congress to appoint a board of superintendence. The subject was before Congress two years; and the members were properly informed before the resolution authorizing the contract was passed. Congress then saw fit to pass a law authorizing the Secretary of State to make a contract on the basis of the memorial. The contract was drawn up by that Secretary without consultation with the contractors, and submitted to them. They refused to sign it on the ground that the price per volume was not sufficient. The contract was then placed in the hands of the Attorney-General. He decided that the law was ambiguous, so far as it related to the price to be paid, which was to be based on the price paid for the first volume of the Diplomatic Correspondence. There being two works differing in the price, the Attorney-General decided that the safest way was for the Secretary to take the work for which the smallest price was paid per volume, as a basis. These gentlemen refused to enter into the contract, believing it should be based on the highest price; and the Secretary, who felt great and praiseworthy interest in the matter that the work should be published, actually solicited them to enter into the contract as drawn up by him; and after some assurances, not on paper, they agreed to do so.

Mr. E. said the contractors had actually delivered two volumes of this work, and another was nearly finished, and would be delivered shortly. They were actually suffering for the money now due them; and if it was to be withheld for the possible contingency of a modification of the contract, it would be doing them crying injustice; and he remonstrated against the cruelty, injustice, and oppression of attempting to coerce the industrious and enterprising contractors for this work, by keeping them out of their just dues, until they might, from embarrassments, be induced to relinquish their contract. They had already expended \$106,000 paid out, and mostly now due, and for which they were now daily called upon to meet, and the Government had as yet paid them but \$25,000. These gentlemen have been in every State of the Union, and in England, collecting materials for this work; and have had a great number of clerks transcribing

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important documents in all those places, and have actually collected an immense quantity for future volumes. The amount now proposed to be appropriated would not compensate them for the outlay they have made for this purpose alone. It would be ruinous to them to withhold the money. He then adverted to the past practice of Government in paying persons to supervise and edit works, under the patronage of Congress, but that these gentlemen do not get a cent for their immense labor of this kind. The copy of other works referred to was furnished to the printer in proper order to print; but these gentlemen are compelled to prepare the matter themselves, and thus to that extent lessen the profits on the work. They actually receive nothing for the expenditure, for the labor of clerks, and for their editorial labors.

In reply to the arguments advanced for the discontinuance of the work, to indemnify the contractors, he said it would cost almost as much to justly compensate them, as it would do to go through with the contract. Mr. E. said so far as the validity of the contract was concerned, that the Secretary of State did make a detailed report, which was referred to the Committee on Finance; and that that committee made a report, and declared that it was a valid and binding contract, based on law, and that the publishers had performed their part of the contract.

Mr. E. then adverted to the fairness with which the contractors had acted in their efforts and solicitations to prevail on Congress to appoint a board to which they wished the whole matter to be submitted for investigation—and their anxiety for Congress to authorize a proper person to supervise and select the matter for publication. Yet Congress did not choose to do so. They have literally fulfilled their part of the contract which was made by the Secretary of State, under the direction of the Attorney-General; yet gentlemen complained that all was not right in the contract—that there was some deception. They actually warned you of the magnitude of the work, and urged upon you to superintend its publication, and you neglected to do so. On your part, then, there could be no just cause of complaint.

Mr. E. said he would agree to any proposition to limit, or supervise, or examine the matter; but the expense had been incurred for these three volumes, and they had been delivered, and should be paid for, without reference to the future action of Congress, or future limitations. He then read Mr. Livingston's opinion of the great advantages of the work to the present generation and to posterity. It would afford the means to prevent them from losing sight of the cause from which the Government originated, and the principles on which it is founded.

Mr. E. considered this work of more importance than any work published in the English language. It would stand as a permanent

memorial of the past. He maintained that the distribution of these books to members, to be carried into every Congressional district in the country, was the best mode to dispose of them. He regarded the work of incalculable value, and prized it highly; and the more that was gathered of the memorials of the past the better; and hoped if materials of the proper kind would justify, that the work would be extended to forty volumes. The price of the work, (twenty volumes,) he maintained, would not cost more than \$408,000 instead of a million, as stated by the gentleman from New Hampshire. All who received the work should be proud of it. He rejoiced that he had lent his aid for its publication, and hoped that some other work would yet be started to preserve more of the memorials of the past. If the appropriation was not made in this bill, he could see no other mode in which the subject could be reached. It was nothing more than common honesty that they should pay the contractors for the books delivered. He concluded by saying that the work was an honor to the country, to Congress, to the Secretary of State, and to the contractors themselves; and he rejoiced in lending his efforts to its continuance and completion.

Mr. PETRIKIN expressed his willingness to investigate the matter at another time, and on a proper occasion, but could not consent to have the appropriation bill delayed by a debate on this amendment, and thereby stop the wheels of Government. He therefore moved the previous question on the motion to concur.

The question then recurring on Mr. PETRIKIN's call for the previous question, it was then seconded, and the main question ordered to be put.

And on the main question, "Shall the amendment of the Senate be concurred in?" Mr. PROFFIT demanded the yeas and nays, which were ordered, and were as follows:

YEAS.—Messrs. H. J. Anderson, Atherton, Beatty, Beirne, Black, Blackwell, Boyd, Brewster, Aaron V. Brown, Albert G. Brown, Burke, Carr, Clifford, Coles, M. A. Cooper, W. R. Cooper, Crabb, Dana, Davee, John Davis, John W. Davis, Deberry, Doan, Dromgoole, Earl, Eastman, Ely, Fine, Floyd, Forrance, Galbraith, Griffin, Hammond, Hawkins, Hill of N. C., Hopkins, Howard, Hubbard, Jameson, Cave Johnson, Keim, Leadbetter, Leonard, Lewis, Lowell, McClellan, McKay, Mallory, Marchand, Medill, Miller, Samuel W. Morris, Parmenter, Parria, Petrikin, Ramsey, Rhett, Edward Rogers, Shaw, Albert Smith, John Smith, Starkweather, Taylor, Francis Thomas, Philip F. Thomas, Jacob Thompson, Vanderpoel, Vroom, David D. Wagener, Weller, Jared W. Williams, Henry Williams, and Lewis Williams—75.

NAYS.—Messrs. Adams, John W. Allen, Barnard, Bond, Briggs, Brockway, Anson Brown, Calhoun, Carter, Curtis, Cushing, Dawson, Dennis, Evans, Everett, Fillmore, Giddings, Goggin, Granger, Habersham, William S. Hastings, Henry, Hoffman, Hunt, Wm. Cost Johnson, Lincoln, Marvin, Mitchell, Monroe, Morgan, Ogle, Osborne, Proffit, Randall, Ran-



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dolph, Rayner, Russell, Saltonstall, Simonton, Waddy Thompson, Tillinghast, Toland, Underwood, Warren, Edward D. White, John White, Joseph L. Williams, and Wise—45.

So the amendment was concurred in.

SATURDAY, May 23.

*The Sedition Law—Matthew Lyon's Case.*

The following report was received from the Committee on the Judiciary :

*The Committee on the Judiciary, to whom was referred the petition of Chittenden Lyon and Matthew Lyon, heirs and representatives of the late Matthew Lyon, deceased, report :*

That in the month of October, 1798, the late Matthew Lyon, the father of the petitioners, at the circuit court held at Rutland, in the State of Vermont, was indicted and found guilty of having printed and published what was alleged to be a libel against Mr. John Adams, the then President of the United States. The alleged libel was in the following words, to wit : "As to the Executive, when I shall see the effects of that power bent on the promotion of the comfort, the happiness, and accommodation of the people, that Executive shall have my zealous and uniform support. But whenever I shall, on the part of our Executive, see every consideration of public welfare swallowed up in a continual grasp for power, in an unbounded thirst for ridiculous pomp, foolish adulation, and selfish avarice—when I shall behold men of real merit daily turned out of office for no other cause than independency of sentiment—when I shall see men of firmness, merit, years, abilities, and experience, discarded in their applications for office, for fear they possess that independence, and men of meanness preferred for the ease with which they can take up and advocate opinions, the consequence of which they know but little of—when I shall see the sacred name of religion employed as a State engine to make mankind hate and persecute each other, I shall not be their humble advocate!" The second count in the indictment, on which the said Matthew Lyon was convicted, charging him with printing and publishing a seditious writing or libel, entitled "Copy of a letter from an American diplomatic character in France (Mr. Joel Barlow) to a member of Congress in Philadelphia," which was in the following words, to wit : "The misunderstanding between the two Governments has become extremely alarming; confidence is completely destroyed; mistrusts, jealousies, and a disposition to a wrong attribution of motives, are so apparent as to require the utmost caution in every word and action that are to come from your Executive,—I mean if your object is to avoid hostilities. Had this truth been understood with you before the recall of Monroe—before the coming and second coming of Pinckney; had it guided the pens that wrote the bullying speech of your President, and stupid answer of your Senate, at the opening of Congress in November last, I should probably have had no occasion to address you this letter. But when we found him borrowing the language of Edmund Burke, and telling the world that, although he should succeed in treating with the French, there was no dependence to be placed in any of their engagements; that their religion and their morality were at an end, and they had turned pirates and

plunderers, and that it would be necessary to be perpetually armed against them, though you are at peace; we wondered that the answer of both Houses had not been an order to send him to the mad-house. Instead of this, the Senate have echoed the speech with more civility than ever George the Third experienced from either House of Parliament."

The court deemed both the publications above recited libellous, under the second section of the act commonly called the sedition law, passed the 4th July, 1798; which section is as follows, viz: "And be it further enacted, That if any person shall write, print, utter, or publish, or shall cause or procure to be written, printed, uttered, or published, or shall knowingly and wilfully assist or aid in writing, printing, uttering, or publishing, any false, scandalous, and malicious writing or writings against the Government of the United States, or either House of the Congress of the United States, or of the President of the United States, with an intent to defame the said Government, or either House of the said Congress, or the President, or to bring them, or either of them, into contempt or disrespect, or to excite against them, or either or any of them, the hatred of the good people of the United States, &c., then such person, being thereof convicted before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years."

Upon this indictment Matthew Lyon was convicted, and sentenced by the court to be imprisoned for four months; to pay a fine of one thousand dollars, and the costs of the prosecution, taxed at sixty dollars and ninety-six cents; and to stand committed until the fine and costs were paid: which were paid, as appears by the exemplification of the record of the said trial and proceedings, now in the archives of this House.

The committee are of opinion that the law above recited was unconstitutional, null, and void, passed under a mistaken exercise of undelegated power, and that the mistake ought to be corrected by returning the fine so obtained, with interest thereon, to the legal representatives of Matthew Lyon.

The committee do not deem it necessary to discuss at length the character of that law, or to assign all the reasons, however demonstrative, that have induced the conviction of its unconstitutionality. No question connected with the liberty of the press ever excited a more universal and intense interest—ever received so acute, able, long-continued, and elaborate investigation—was ever more generally understood, or so conclusively settled by the concurring opinions of all parties, after the heated political contests of the day had passed away. All that now remains to be done by the Representatives of the people who condemned this act of their agents as unauthorized, and transcending their grant of power, to place beyond question, doubt, or cavil, that mandate of the constitution prohibiting Congress from abridging the liberty of the press, and to discharge an honest, just, moral, and honorable obligation, is to refund from the Treasury the fine thus illegally and wrongfully obtained from one of their citizens, for which purpose the committee herewith report a bill.

Mr. TILLINGHAST again adverted to the length of time which had elapsed since the claim was first presented. A whole generation had passed away since the claim was alleged to have

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originated, and it was now impossible to ascertain the true state of the facts, with any thing like satisfaction. He therefore insisted on his motion to lay on the table.

On this motion, Mr. TURNER demanded the yeas and nays; which, being ordered, resulted—yeas 17, nays 129.

So the House refused to lay on the table.

The question then being on ordering the bill to be engrossed for its third reading, it was taken by yeas and nays—yeas 120, nays 20.

So the bill was ordered to be engrossed for a third reading.

Mr. RUSSELL then moved to postpone the further consideration of the bill until Friday next. He alluded to the great length of time which had elapsed since the date of the claim, say 1798; and considering that, asked what gentleman there was who would undertake to say that we could have any thing like a correct knowledge of the occurrences of that time. Generations had passed away, and now, when after the lapse of so many years, we were called upon to act upon the claim, was it not proper that we should obtain as correct information as possible? What was the information which the House had before it, and on which it was asked to rely on the frail memory of man for the evidence in relation to it. But were there no other sources from which better information could be obtained? Certainly there was. By a reference to the papers at the Treasury Department, it could be ascertained whether Government ever received this money or not. He wished to cast no imputation on the gentlemen who supported the bill; but if it should, upon investigation, turn out that this money had never been realized by Government, who was there, he would ask, who would vote for such a claim? What gentleman would, under such circumstances, vote for the passage of the bill? He was sure there was not a single man who would give his vote, if it could be shown that the money had never been received by the Government. Now, his information was, and he believed it to be correct, that the money never had been paid into the Treasury, and that not a single dollar had ever been received by Government. He believed the facts in the report, in relation to the conviction and imprisonment of Matthew Lyon, were true; and, also, that the amount of the fine was raised by his political friends, and the money was deposited with the marshal, in whose custody he was. But, on Mr. Jefferson's coming into power, and before the money was paid into the Treasury, he believed the fine was remitted, and returned to the source from whence it came. Now what he wanted was, proper time to examine into the real state of the facts, and it was for this reason he wished the further consideration of the bill postponed until Friday next.

Mr. BUTLER, of Kentucky, wished to make a few brief remarks in relation to the merits

of this bill. It had been said that, in all probability, the money had never been received by the Government, and that it had been returned. That, he believed, was not the state of the case. It was not true that the bill had ever been rejected. On the contrary, it had been reported by committees from year to year, all of which reports were in favor of the claim.

But there was one fact which would serve to show on what erroneous grounds gentlemen would sometimes base their arguments against bills of this character. The gentleman had said that the fine was remitted when Mr. Jefferson came into power, whereas the money was paid when Lyon was in jail, in 1799, nearly three years before; and could it be presumed that the marshal kept the money in his hands all that time? If the gentleman had been so informed, he was very much mistaken. He was sure that no evidence could be brought to show that the fine had been remitted; and on the other side, there was abundant testimony to show that it had been paid, no matter whether by Lyon himself or by his friends. He appealed to the House whether it was not a disgrace to the country that a claim of this character had remained unpaid for the lapse of so many years. But he saw the object of the gentleman in wishing to postpone it. His object was to kill it by *time*, in which way it had been the practice to kill other bills, when no good reason could be assigned against their passage. He repeated, that there was abundant testimony to show that the fine had been paid, but there was no evidence to show that it had been returned.

But the gentleman had said a great deal about the money having been paid by the friends of Mr. Lyon. Now of what consequence was that? What did it matter, and how could it affect the case, whether the money had been paid by Lyon himself or his friends?

Mr. TURNER, after alluding to the great number of years which this claim had been suffered to remain unacted upon, asked whether, during the lapse of all that time, such a ground of opposition had been taken before? Of all the reports which had been made on this subject, none ever attempted to deny that the money had been received by Government. The only ground of opposition had been that the money was raised by the friends of Matthew Lyon instead of himself, and that if it were repaid, it would go into the hands of those who had paid nothing. Now the question was not whether the money had been raised by Lyon or his friends; the question was whether Government could conscientiously retain money in the Treasury paid under such circumstances. As was stated by his friend from Kentucky, it was not likely that a fine paid in 1798 would be remitted by Jefferson three years afterwards, in 1801. It was not likely that the officer would have kept the money in his hands all the time, without paying it into the Treasury. If the fine had ever been remitted, the fact would be

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shown in some way or other. For his part he had not the least idea but that the money was paid into the Treasury, and has been used by Government from that day to this. But if, after this bill should pass, it should be made to appear that Mr. Lyon did receive back the money, then if no gentlemen would move a reconsideration, he would certainly do it himself, in order to retain the bill in the House. Of that, however, he had no idea.

Mr. RICH GARLAND, after some preliminary remarks, said that when this bill had been under consideration in 1832, the committee applied to the Treasury Department to ascertain whether or not the money had ever been paid into the Treasury, and a letter in reply, directed to the Hon. W. R. DAVIS, stated that the books of the Treasury Department offered no such evidence that the money had ever been received.

Mr. BRIGGS said he should vote for the postponement. The letter just read by the gentleman from Louisiana showed that the money had not gone into the Treasury. If so, that was sufficient reason for taking time to examine how the case stood. There was at least presumptive evidence that the money had been repaid, if it had ever been paid at all. He would remind gentlemen that this transaction took place at the close of the Administration of the elder Adams, who was succeeded by Jefferson, and, with him, a revolution in public opinion. It was well known that Jefferson remitted all unexecuted judgments founded upon the sedition law. But what answer could gentlemen make to this? If Matthew Lyon paid the money, why did he not come before the Congress that succeeded? Why had a period of twenty-five years been suffered to elapse before the claim was presented? If Lyon had paid the money, was it not to be inferred that he would have come before the very next Congress and demanded restitution? and when a majority in both Houses of his political friends would have been quick to restore the money? It might be said, however, that the party to which Lyon belonged, had conscientious scruples on the subject. But a reference to the acts of Jefferson and the Congress at that time, showed that they had no such scruples. Mr. B. concluded by saying that the fact of no claim being presented to that Congress, was presumptive evidence that there was no claim to make. He would therefore vote in favor of the postponement, so that the true facts might be known.

Mr. JAMESON said the only question was, whether the money had been paid. Of that, in his mind, there could be no doubt. It was true, the claim had not been presented for a number of years, but that was probably owing to the pride of Lyon, which kept him from applying sooner, and it was only when poverty compelled him, that he at last presented his claim. He himself then petitioned, and the facts are, that he paid the money. Five or six

committees have reported that the money has never been repaid to him, and that was sufficient. With these views, and believing that the bill ought to be passed at once, he moved the previous question; but subsequently withdrew it at the request of

Mr. WADDY THOMPSON, who wished to say a few words on the subject. It did seem to him that the House, in rejecting this bill on the supposition that the money had not been paid, and that, too, in opposition to the reports of its own committees, would establish a precedent, which would be found to be extremely inconvenient. The great object in referring it to a committee had been to ascertain that fact, and after the report had been made, he for one would not undertake to question the report, unless the evidence to the contrary should be very strong indeed. How very strong was the evidence in favor of its claim. It had been the subject of numerous reports, only two of which were adverse to it; it had been before Congress for twenty years, and yet, after this long period, for the first time, this new objection was started, "that the money had never been paid." Out of all the reports, there had been but two adverse to it, and even in those, not the slightest imputation was made, that the money had not been paid.

The hour having arrived, the House took its usual recess.

#### EVENING SESSION.

After the recess—

Mr. W. THOMPSON, of South Carolina, said, how stands this matter? Why, a man who ranked among the patriots of his country, who was cast into prison under an odious law—one who deserved a monument, and had it in the heart of every true man, and who stood up, one in ten thousand, against power and corruption, yet this man was entitled to no thanks from those who came after him. Here was a man, who, like the illustrious patriot of England, John Hampden, had stood up against power in high places, for which he had suffered ignominy, and been thrust into the cell of a felon, and yet, in these times, objection was made to remunerating his heirs, because the man had been too poor to pay the fine himself. That country must be base, indeed, which would sanction such a plea. That country no longer deserved to be free which would deny justice to a suffering patriot on such grounds. In all the reports which had been made, it had never been denied that the money was paid. Yet gentlemen, at this late period, thought proper to start that objection, and upon rumor, mere floating rumor, had expressed their belief that it had never been paid. But the opposition of gentlemen was not consistent, for, first, it was contended that the money was not paid at all; and, second, that the money had been raised by Lyon's friends, and that, on that ground, the bill ought not to pass. But were we to legislate in this kind of a way,

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where was the use of our referring subjects of this nature to committees, if we paid no regard to the reports of those committees. Yet the reports of committees were disregarded, and reliance placed on mere rumor that the money had not been paid. Mr. T. here produced a copy of the sentence of Matthew Lyon to four months' imprisonment and a thousand dollars fine, with costs, and which required that he should stand committed until the sentence had been complied with. He also produced a copy of the order of the President of the United States to the marshal of Vermont, requiring him to keep Lyon in custody until the fine and costs were paid. Yes, (said Mr. T.,) to keep him in jail until he rotted, unless the money should be paid. Mr. T. then produced a copy of the certificate from the marshal that the terms of the sentence had been complied with, and that Matthew Lyon was consequently discharged. This was dated the 9th of February, 1799, four months after the sentence had been passed. Now, said Mr. T., will any one say that the marshal had a right to discharge Matthew Lyon before the terms of the sentence had been complied with? Will any one suppose for a moment that the officer dared to discharge him before the fine was paid? But gentlemen contended that this money never came into the Treasury. What had that to do with the question? If the marshal had not done his duty by not forwarding the money to the Treasury, was that any reason why Matthew Lyon should not have justice? Would gentlemen contend, because Swartwout had absconded with Government money, that the merchants of New York were bound to pay over again the duties on their goods? Certainly not. Then he was surprised to hear gentlemen argue that because it was doubtful whether this fine was ever paid into the Treasury, justice should not be done to this patriot. As for the fine having been remitted, what evidence was there to lead to such a belief? He apprehended that Mr. Adams did not remit the fine; there could be no reason for supposing that; and as for its being remitted by Mr. Jefferson, was it likely that a fine paid in 1799, would be remitted three years afterwards, in 1801? Here were the terms of the sentence, condemning Lyon to four months' imprisonment, and a fine of \$1,000, with costs; and here, too, was the certificate of the officer that the terms of the sentence had been complied with, and that the man was accordingly discharged. The date of the commitment was the 10th of October, 1798, and the date of the certificate February 9, 1799—just four months, the period of imprisonment designated. Now what could gentlemen want more to satisfy them that the money had been paid? But to show the great danger there was in taking only *ex parte* testimony in such cases, he would advert to the paper read by his friend from Louisiana, (Mr. GARLAND,) which stated that there was no record in the Treasury Department of the

money having been received. That paper was a letter addressed to the Hon. Warren R. Davis, than whom a man with a purer heart and a better head never lived. Now what did Mr. Davis say in his report on the subject? Why, in speaking of the money, he said "which was paid, as appears by the archives of the proceedings," etc. How dangerous was it, then, to take a single scrap of testimony, without embracing the whole. The gentleman from Louisiana himself discovered his error, and with a promptitude which did him much credit, furnished to him (Mr. T.) the certificates he had just read. He gave the gentleman from Louisiana great credit for his constant vigilance in watching over the interests of the country; but it was evident to all that there was great danger in relying upon *ex parte* testimony. Now, after what he had read, would any gentleman get up and defend the Government against this claim? Would any one say that this Lyon could be discharged without payment of his fine, any more than a defendant who had been committed for debt, without payment of that debt? Here was the testimony of Mr. Davis in his report, speaking of the money as having been paid, and also the certificate of the marshal to show that the fine had been exacted from this patriot, who dared to stand up for those great rights which Milton praised as above all others which man could enjoy, viz: the right to speak, to write, or to publish. It was nothing to us how the money was raised to pay that fine—whether it was raised by a prize in the lottery, or by a subscription among his friends. The fact was, the money had been paid. But (said Mr. T.) if there was no other way of getting rid of the money, I would burn it, rather than it should remain to pollute the Treasury any longer. The country ought to be glad of any excuse for getting rid of money wrung from the pockets of patriots by such an odious law. If no other way could be found to dispose of it, it would be far better to burn it, rather than it should remain to pollute the Treasury. And if I were at all inclined to be superstitious, I should believe that all the evils which have affected the country since 1799, may be attributed to the odious fine being deposited in the Treasury. Mr. T. concluded by hoping that no further opposition would be made to the bill, as there could be no one but who believed that the law under which the fine was imposed was a violation of the constitution.

Mr. WELLER believed with the gentleman from South Carolina, that the alien and sedition law was a violation of the constitution, but at the same time he believed there were those in the country who believed it to have been in strict accordance with the constitution. If he remembered correctly, he thought he had read a very long argument, by a gentleman now a member of the House, in favor of that law. The gentleman from South Carolina had said enough to satisfy every one that the bill ought

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*Message from the President—Presents from the Imaum of Muscat.*

[26TH CONG.]

to pass, and the only question to be decided was, whether the money had been paid. If the money had been paid by Matthew Lyon, it seemed to follow as a matter of course that it ought to be repaid. He believed with the gentleman, that the Treasury ought no longer to be contaminated—no, not for a single day, by money drawn from the pockets of a patriot, and placed in its vaults.

It would not do for gentlemen to say that the money never reached the Treasury, and make that an excuse. If the money had been paid over to the officer, and that officer squandered it, was that any reason why Matthew Lyon should suffer? Because evidence did not appear in the Treasury Department that the money had been received, was that to overthrow the great mass of testimony which appeared, that the money had been paid by Lyon? Was it not just that the House should act on this question, after it had been delayed for so long a time? It had been already delayed long enough. Year after year had passed away, and was it not very ungrateful for us, in 1840, to deny justice, which had been neglected for so long a period? He hoped the bill would pass, without further delay; and, believing that every gentleman was of the same opinion, he moved the previous question, but withdrew it at the request of

Mr. PORK, who wished to state a few facts in relation to this claim.

Mr. P. then went on, at some length, to state that he had been intimately acquainted with Mr. Lyon, who served in Congress with him, in the time of Jefferson, and that it was never doubted that the fine had been paid. It was understood, however, that the money had been made up by Mr. Lyon's friends. On concluding, Mr. P., according to his pledge, renewed the motion for the previous question, but withdrew it at the request of

Mr. SLADE, who went into a statement of the facts of the case, the conviction of Lyon having taken place in Mr. S.'s district. He stated the circumstances of indignity accompanying the imprisonment—his being paraded through the district, thrown into a loathsome jail, and deprived of the use of pen, ink, and paper. The Democrats of the day gathered in a great assembly round the jail—an assembly not equalled by any Mr. S. had ever seen, save the grand convention at Baltimore—and a voluntary contribution was called for and taken up; but before it could be applied, the fine had been paid, either through the intervention of Col. Lyon's friends in another county, or by his own means. As soon as Lyon was at the jail door, he proclaimed that he was on his way to Congress. The cavalcade which attended him was half a mile long—stopped at his father's house, and there all partook of cakes and hard cider, in true Democratic style. Mr. S. did not believe the fine had ever been remitted by Mr. Jefferson or by Congress.

Mr. TURNER moved the previous question,

which was seconded, put, and carried; and the main question being on the passage of the bill, it was decided by yeas and nays—yeas 124, nays 16.

So the bill was passed,  
And the House adjourned.

#### IN SENATE.

MONDAY, May 25.

*Message from the President—Presents from the Imaum of Muscat.*

The CHAIR submitted the following Message from the President of the United States:

#### *To the Senate:*

I communicate to Congress sundry papers, from which it will be perceived that the Imaum of Muscat has transmitted to this country, and, through the agency of the commander of one of his vessels, offered for my acceptance a present, consisting of horses, pearls, and other articles of value. The answer of the Secretary of State to a letter from the agents of the vessel communicating the offer of the present, and my own letter to the Imaum, in reply to one which he addressed to me, were intended to make known in the proper quarter the reasons which had precluded my acceptance of the proffered gift. Inasmuch, however, as the commander of the vessel, with the view, as he alleges, of carrying out the wishes of his sovereign, now offers the presents to the Government of the United States, I deem it my duty to lay the proposition before Congress, for such disposition as they may think fit to make of it; and I take the opportunity to suggest for their consideration the adoption of legislative provisions, pointing out the course which they may deem it proper for the Executive to pursue in any future instances where offers of presents by foreign States, either to the Government, its legislative or executive branches, or its agents abroad, may be made under circumstances precluding a refusal without the risk of giving offence.

The correspondence between the Department of State and our Consul at Tangiers, will acquaint Congress with such an instance, in which every proper exertion on the part of the Consul to refrain from taking charge of an intended present, proved unavailing. The animals constituting it may, consequently, under the instructions of the Secretary of State, be expected soon to arrive in the United States, when the authority of Congress, as to the disposition to be made of them, will be necessary.

M. VAN BUREN.

WASHINGTON, May 21, 1840.

[The following is a portion of the documents:]

NEW YORK, May 2, 1840.

SIR: We have the honor to inform you, that as consignees of the ship *Sultanee*, and cargo, belonging to his Highness, Seyhd Seyhd, Imaum of Muscat, just arrived at this port from Zinzibar, we have been charged by the commander of said ship, Ahmet Ben Haman, to receive and hold subject to your Excellency's order, certain presents from his Highness to the President of the United States.

Those presents are:

Two Arabian Horses,  
One case Otto Roses,

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*Death of the Representative Anson Brown.*

[JUNE, 1840.]

Five demijohns Rose Water,  
One package Cashmere Shawls,  
One bale Persian Rug,  
One box Pearls,  
One box—Sword.

We beg to be favored by your Excellency's instructions, as to the disposition and delivery of those articles.

We have the honor to be, sir, your obedient servants,  
BARCLAY & LIVINGSTON.

His Excellency the PRESIDENT of the U. S.

Washington.

DEPARTMENT OF STATE,  
WASHINGTON, 7th May, 1840.

GENTLEMEN: I am directed by the President to acknowledge the receipt of your letters to him of the 2d and 5th instant, informing him of the arrival, at your port, of the ship *Sultanee*, commanded by Ahmet Ben Haman, and bearing presents from his Highness, the Imaum of Muscat, for the President.

The President will avail himself of the return of the *Sultanee*, to forward an answer to the friendly communication which he received from his Highness, and will express at the same time the lively satisfaction he derives from this first visit of a vessel from the Sultan's dominions to the United States, and his sense of the friendly disposition evinced by his Highness in the presents which Ahmet Ben Haman is instructed to offer in his name. Those presents the President is, under existing constitutional provisions, precluded from accepting for his own use. I have, therefore, to request that you will apprise Ahmet Ben Haman of the circumstance, that such other disposition of the articles may be made by him as will best comport with the wishes of the Sultan.

I am, gentlemen,

Your obedient servant,

JOHN FORSYTH.

Messrs. BARCLAY and LIVINGSTON, New York.

To His Excellency MARTIN VAN BUREN, *President of the United States of North America, Washington:*

SIR: Hope the Almighty God will protect you, and keep you in good health. From this part of the world, having no news to communicate them to your Excellency; and, whenever opportunity offers for this place, we shall feel happy to hear from your Excellency. With any thing that we can do for you, little or plenty, shall feel happy.

Written by the order of His Highness,

SEYD SEYD BIN SULTAN BIN AHMED,

Imaum of Muscat.

SYED BIN, Calfaun.

Dated MUSCAT, 25th December, 1839.

To His Highness SYED BIN SULTAN, *Imaum of Muscat*, MARTIN VAN BUREN, *President of the United States of America—Greeting:*

GREAT AND GOOD FRIEND: By the hands of Ahmed Ben Haman, commanding your Highness's ship *Sultanee*, I had the satisfaction of receiving your Highness's letter of the 19th of the Moon of Shawal, and 1,255 of the Hegira. It has been a source of lively satisfaction to me, in my desire that frequent and beneficial intercourse should be established between our respective countries, to behold a vessel bearing your Highness's flag enter a port of the United States, to testify, I hope, that such relations will be reciprocal and lasting.

I am informed that Ahmet Ben Haman had it in charge from your Highness to offer for my acceptance, in your name, a munificent present. I look upon this friendly proceeding on your part as a new proof of your Highness's desire to cultivate with us amicable relations; but a fundamental law of the Republic which forbids its servants from accepting presents from foreign States or Princes, precludes me from receiving those your Highness intended for me. I beg your Highness to be assured that, in thus declining your valuable gift, I do but perform a paramount duty to my country, and that my sense of the kindness which prompted the offer is not thereby in any degree abated.

Wishing health and prosperity to your Highness, power and stability to your Government, and to your people tranquillity and happiness, I pray that God may have you, great and good friend, in his holy keeping.  
M. VAN BUREN.

By the President:

JOHN FORSYTH,

Secretary of State.

WASHINGTON, May 8, 1840.

The Message and documents were referred to the Committee on Foreign Relations, and ordered to be printed.

THURSDAY, June 18.

*Death of the Representative Anson Brown.*

Mr. TALLMADGE rose, and addressed the Senate as follows:

MR. PRESIDENT: The message from the other House, which has just been read, announces the death of the Hon. ANSON BROWN, late a Representative in that body from the State of New York.

I rise to ask of the Senate that tribute of respect which is due to his memory. I perform this melancholy duty with no ordinary emotions. But a few days have elapsed since the deceased was here in the regular discharge of the important duties of his station. Before he left for home, I heard him speak of his indisposition, but I had no apprehension of serious illness, much less this sudden and unexpected termination of his disease. He died at his own residence in Ballston, last Sunday evening, surrounded by his family and friends.

Mr. BROWN was a gentleman of a liberal education, and distinguished attainments as a scholar, of high standing in the legal profession, and possessed in an eminent degree the esteem and confidence of all who had the good fortune to make his acquaintance. He was kind and amiable in his intercourse in society, and no one was more happy in his domestic relations. As a husband and father, none can fully appreciate his virtues, except those who have been called to mourn his loss. My heart bleeds to contemplate the desolation of the widow and the orphan whom this afflictive bereavement has left behind. Cut off in the vigor of manhood, and in the midst of his usefulness, the community has lost one of its most valuable members, and his friends one of their most cherished associates.

His sudden death is one of those inscrutable

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dispensations of Providence to which we are all bound to bow with perfect submission. I will only add, that he was a man of the strictest integrity and honor, and that he lived respected, and died lamented by all who knew him.

As a tribute of respect for his memory, I move for the adoption of the Senate the following resolutions :

*Resolved*, That the members of the Senate will testify their respect for the memory of the deceased, by wearing crape on the left arm for the space of thirty days.

*Resolved*, That as a further mark of respect for the memory of the deceased, the Senate do now adjourn.

The resolutions were then unanimously adopted,

And the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, JUNE 18.

#### *Death of the Representative Anson Brown.*

The journal having been read—

Mr. CURTISS rose and addressed the House as follows :

Mr. SPEAKER: In the absence of one of my colleagues, who has been a member of this House much longer than any of his companions, circumstances, in the opinion of my colleagues, have imposed upon me this morning the performance of a most painful duty.

I have risen, sir, to arrest the attention of the House, if possible, for a few minutes, to announce that death has passed upon one of its members; that death has broken the ranks of the representation from the State of New York. The honorable ANSON BROWN, a Representative from that State, died at his own residence, in the county of Saratoga, on Sunday evening last, at ten o'clock.

But a few days since, not now more than ten or twelve, I met him, and conversed with him at one of the doors of this hall. He said he was about to visit his family for a few days, and that, before any final decision of the House should take place upon the subject then and now the principal topic of daily discussion, he expected to be again in his place; indeed, he said a letter from any friend, notifying him of its necessity, would command his immediate return. He shook me by the hand, and turned from me with some cheerful expressions of kindness. I saw him then, for the last time. Alas! sir, he has now gone beyond the calls of public duty, and the summons of private friendship addressed to him now will fall upon

"The dull cold ear of death."

It was known to some of his colleagues and more intimate friends that, from the commencement of this session, Mr. BROWN had been the victim of impaired health; and yet, sir, his death was not more expected than that of the most vigorous of us who occupy these places

to-day. But, sir, the event proves that, from the first day he entered this hall, the hand of disease was constantly pressing him downward to the grave in which death has now laid him. The event proves that, while his colleagues, from his punctual attendance upon the duties of this House, regarded him as but slightly indisposed, he was in fact struggling, in the performance of his public duty, with the pangs of a fatal malady.

I dare not trust myself to speak of this true-hearted man as his character deserves. I must check the promptings of friendship, early established, and long continued, without interruption. But I may say of him, to those who were not familiar with his character, that he possessed a mind so illuminated by knowledge and reflection, a spirit so imbued with deep sentiments of patriotism, that, in the absence of physical infirmity, he was fitted for a career of distinction and usefulness in this House that would have reflected honor upon his constituents and the people of the State to which he belonged.

It was not without the greatest reluctance on the part of Mr. BROWN, that the people of his district induced him to enter upon the duties of public life; and it was his intention at the close of his term of office to have retired to those more congenial pursuits of a private citizen, which he unwillingly surrendered at the solicitation of his friends. He loved his home, his family, his neighbors, and the agreeable excitement of a profession in which he had acquired the distinction of a sound and able lawyer.

Mr. Speaker, it is a matter of consolation with his colleagues, since in the providence of God the career of our valued friend was now to be cut short in the meridian of his life, that the fatal arrow did not reach him while separated from the solace of his family and the comforts of his home. He has closed an honorable life in the midst of those who knew him best and honored and loved him most. He has finished life where he began it. At the hour of death he was surrounded by those who knew him as an affectionate husband, a tender father, a faithful son, a kind neighbor, a high-minded, patriotic citizen, and a devoted Christian.

Sir, I knew this departed friend for years that run back to the days of college remembrances. I know, too, the intelligent constituency that he represented. They are the people of Saratoga and Schenectady, two of the oldest and most renowned counties in the history of New York. Among that people he was born; among them he had gained an enviable character for purity of purpose, and for honor and fidelity in all the relations of life; among them he lived in the affectionate regards of numerous friends, and in the universal respect and confidence of his fellow-citizens, of all classes and parties. In his untimely death, his district sustains an irreparable loss, the State is bereaved of one of her worthiest sons, and this House

1st Sess.]

Admission of Florida.

[JULY, 1840.]

has parted with a member whose life and conversation were an honor to its body.

Sir, it is not my office to speak of the admonition to us who survive that comes from the early grave of one of our fellows. It cannot fail, however, sir, to teach us "what shadows we are," and, arresting us in the midst of this scene of active and exciting employment, it must remind us "what shadows we pursue."

Mr. CURTISS thereupon submitted the following resolutions:

*Resolved*, That this House has heard with deep sensibility of the death of the Hon. ANSON BROWN, a member from the State of New York, which took place at his residence, at Ballston Spa, on the 14th instant.

*Resolved*, That, as a mark of respect for the memory of the deceased, the members of this House will wear crape on the left arm for the space of thirty days.

Which resolutions being unanimously adopted, thereupon the House, on motion of Mr. CURTISS,  
Adjourned.

## IN SENATE.

FRIDAY, JUNE 26.

*Commerce and Navigation.*

The VICE PRESIDENT submitted a report from the Secretary of the Treasury, enclosing the annual statement of the commerce and navigation of the United States for the year ending September 30, 1839; which was laid on the table, and the usual number of extra copies ordered to be printed.

We copy the following abstract of the contents of this document from the letter of the Register to the Secretary of the Treasury:

The imports during the year have amounted to \$162,092,132, of which there was imported in American vessels \$143,874,252, and in foreign vessels \$18,217,880. The exports during the year have amounted to \$121,028,416, of which \$103,533,891 were of domestic, and \$17,494,525 of foreign articles. Of the domestic articles, \$82,127,514 were exported in American vessels, and \$21,406,377 in foreign vessels. Of the foreign articles, \$12,660,484 were exported in American vessels, and \$4,834,091 in foreign vessels. 1,491,279 tons of American shipping entered, and 1,477,928 tons cleared from the ports of the United States. 624,814 tons of foreign shipping entered, and 611,839 tons cleared during the same period.

The registered tonnage, as corrected at this office, is stated at	-	-	834,244	54.95
The enrolled and licensed tonnage at	-	-	1,153,551	85.95
And fishing vessels at	-	-	108,682	34.95
Tons	-	-	2,096,478	81.95

Of the registered and enrolled tonnage, amounting, as before stated, to	-	-	1,987,796	47.95
There were employed in the whale fishery	-	-	131,845	25.95

The total tonnage of shipping built in the United States during the year ending the 30th of September, 1839:

Registered	-	-	55,065	47.95
Enrolled	-	-	65,922	82.95
Tons	-	-	120,988	34.95

MONDAY, June 29.

*North-eastern Boundary.*

The following Message was received from the President of the United States, by Mr. A. VAN BUREN, his secretary:

*To the Senate:*

The importance of the subject to the tranquillity of our country makes it proper that I should communicate to the Senate, in addition to the information heretofore transmitted in reply to their resolution of the 17th of January last, the copy of a letter just received from Mr. Fox, announcing the determination of the British Government to consent to the principles of our last proposition for the settlement of the question of the North-eastern boundary, with a copy of the answer made to it by the Secretary of State. I cannot doubt that, with the sincere disposition which actuates both Governments to prevent any other than an amicable termination of the controversy, it will be found practicable so to arrange the details of a conventional agreement on the principles alluded to as to effect that object.

The British commissioners, in their report communicated by Mr. Fox, express an opinion that the true line of the treaty of 1783 is materially different from that so long contended for by Great Britain. The report is altogether *ex parte* in its character, and has not yet, as far as we are informed, been adopted by the British Government. It has, however, assumed a form sufficiently authentic and important to justify the belief that it is to be used hereafter by the British Government in the discussion of the question of boundary, and as it differs essentially from the line claimed by the United States, an immediate preparatory exploration and survey on our part, by commissioners appointed for that purpose, of the portions of the territory therein more particularly brought into view, would, in my opinion, be proper. If Congress concur with me in this view of the subject, a provision by them to enable the Executive to carry it into effect, will be necessary.

M. VAN BUREN.

WASHINGTON, 27th June, 1840.

WEDNESDAY, July 1.

*Admission of Florida.*

Mr. WALKER, from the Select Committee to which had been referred various memorials on the subject, reported

A bill for the admission of Florida into the Union on certain conditions.

[The bill provides that the State shall embrace the territories of East and West Florida, as described in the constitution adopted by the people of Florida, January 11, 1839.]

Also a bill providing for the division of Florida, and the admission of the States of East and West Florida.



JULY, 1840.]

Adjournment.

[26TH CONG.]

[This bill provides that, after the admission of Florida, the Legislature may pass a law dividing the State into two States, to be designated East and West Florida—the dividing line to be the Suwannee River, without further proceedings of Congress, but not until it is ascertained that the population east as well as west of the Suwannee shall exceed thirty thousand.]

The bills were respectively read, and ordered to a second reading.

FRIDAY, July 8.

*Election of President of the Senate pro tem.*

The Senate was called to order by the Secretary, and immediately proceeded to ballot for a President *pro tempore*.

The ballots having been counted, it appeared that

The whole number of votes given was	-	29
Of which Mr. KING received	-	23
Scattering	-	6

Mr. KING, having received a majority of the whole number of votes given, was declared duly elected President of the Senate *pro tem*.

Mr. CALHOUN and Mr. KNIGHT having conducted Mr. KING to the chair, he addressed the Senate as follows:

GENTLEMEN OF THE SENATE: Observation and experience have convinced me that, so long as this body continues to be distinguished, as heretofore, by order and regularity in its proceedings, and by decorum in debate, the presiding officer will have no difficult task to perform. Under these impressions, I enter upon the discharge of the duties you have been kind enough to devolve on me. I shall endeavor as far as possible to discharge these duties faithfully; I know that I will discharge them honestly. My earnest desire is to do justice to all, and preserve order, should it ever be unfortunately departed from; but I shall endeavor to preserve it in a manner least offensive to any individual member. Should I at any time fall into error, these errors will, I trust, meet with the kind indulgence of the Senate, and that I shall constantly receive the aid and assistance of every honorable Senator, in the discharge of the duties to which I am called. Should I receive that, I have no doubt that they will be discharged satisfactorily. I tender you my sincere thanks for the honor you have conferred upon me.

TUESDAY, July 21.

*Adjournment.*

The Senate concurred in the joint resolution from the House for appointing a joint committee to wait on the President of the United States, and inform him that Congress, unless he had some further communications to make,

were now ready adjourn; and the President *pro tem.* was authorized to appoint the committee on the part of the Senate.

Mr. HUBBARD, from the Joint Committee on the part of the Senate, reported that it had waited on the President to receive any further communications he might be pleased to make, was informed by the President that he no further business to communicate, and wished each Senator a happy return to his home.

Mr. PHELPS introduced a resolution, which was carried unanimously, thanking the President *pro tem.* for the able and impartial manner in which he had discharged the duties of his station.

Mr. TAPPAN then moved that the Senate adjourn *sine die*.

The PRESIDENT *pro tem.* having resumed the chair, addressed the Senate as follows:

GENTLEMEN OF THE SENATE: Our very protracted session has drawn to a close. Whether our time has been employed in a manner most conducive to the public interest, is not for me to determine. But I take this occasion to say, and I do it with much pleasure, that if censure attaches anywhere, this House is not justly liable to any portion of it. Here business has met with no improper or unusual obstruction. Every subject of a legislative character which has reached us from the other House, has been finally disposed of—our duty has been faithfully performed. The course pursued by this honorable body during this session, agitating and exciting as it has been, is well calculated to raise it still higher in the esteem and confidence of the people throughout this wide-spread land. Decorum in debate has characterized its proceedings; and a proper self-respect and dignity of deportment has marked the conduct of each honorable Senator. I must be permitted, gentlemen, to return you my sincere thanks for your unanimous expression of approbation of my official conduct. To the best of my ability I have discharged the duties; and the impartiality accorded to me by each honorable Senator, is a source of heartfelt gratification. My object has ever been to enforce the rules, to preserve order, but to inflict pain on no one. If, however, I have on any occasion wounded the feelings of any Senator, I take this public occasion to express my deep regret, and to ask his pardon.

May you return, gentlemen, in safety to your homes and families; and may prosperity and happiness be the lot of you and yours. I bid you, one and all, a kindly farewell.

The motion to adjourn was then put and carried; and

The PRESIDENT *pro tem.* announced that the Senate of the United States stood adjourned *sine die*.

[The House of Representatives also adjourned on this day, *sine die*.]

## TWENTY-SIXTH CONGRESS.—SECOND SESSION.

### PROCEEDINGS AND DEBATES

IN THE

### SENATE AND HOUSE OF REPRESENTATIVES.

#### IN SENATE.

MONDAY, December 7, 1840.

This being the day set apart by the constitution for the meeting of Congress, at 12 o'clock, the Secretary, in the absence of the presiding officer, called the Senate to order, and there being no quorum present,

On motion of Mr. WRIGHT, the Senate adjourned until to-morrow at 12 o'clock.

#### HOUSE OF REPRESENTATIVES.

MONDAY, December 7.

At 12 o'clock, the SPEAKER called the House to order.

The Clerk then called the roll by States, when ninety-eight members appeared.

The following gentlemen elected to fill the vacancies occasioned by the resignation and death of former members, were then announced, and severally took the usual oath; viz:

Messrs. CHARLES MCCLURE, of Pennsylvania; ROBERT C. WINTHROP, of Massachusetts; JEREMIAH MORROW, of Ohio; HENRY S. LANE, of Indiana; WILLIAM W. BOARDMAN, of Connecticut; NICHOLAS B. DOR, of New York; JOHN B. THOMPSON, of Kentucky.

The SPEAKER then counted the House, and there being no quorum,

The House adjourned.

#### IN SENATE.

TUESDAY, December 8.

At 12 o'clock, the Hon. W. R. KING, President *pro tempore*, called the Senate to order, and it being ascertained that there was not a quorum present,

On motion of Mr. SMITH, of Indiana, the Senate adjourned until to-morrow at 12 o'clock.

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#### HOUSE OF REPRESENTATIVES.

TUESDAY, December 8.

After the journal of yesterday had been read, and it appearing therefrom that the House had adjourned for want of a quorum,

The SPEAKER directed the Clerk to call over the names of the absentees.

Mr. DODGE, Delegate from Iowa, and Mr. DORY, Delegate from Wisconsin, were then duly qualified, and took their seats.

There being now a quorum,

On motion of Mr. TALIAFERRO, it was

*Resolved*, That a committee be appointed on the part of this House, to join such committee as may be appointed on the part of the Senate, to wait on the President of the United States, and inform him that a quorum of the two Houses is assembled, and that Congress is now ready to receive any communication he may be pleased to make.

Whereupon, Mr. TALIAFERRO and Mr. JAMES JOHNSON were appointed the said committee on the part of the House.

Mr. TALIAFERRO offered the following:

*Ordered*, That a message be sent to the Senate, informing that body that a quorum of the House of Representatives is assembled, and that the House is ready to proceed to business.

#### Abolition of Slavery.

Mr. ADAMS gave notice that he would on to-morrow move to rescind the 21st rule of the House adopted on the 28th of January last; which is as follows:

"No petition, memorial, resolution, or other paper praying the abolition of slavery in the District of Columbia, or any State or Territory, or the slave-trade between the States or Territories of the United States, in which it now exists, shall be received by this House, or entertained in any way whatever."

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*The President's Message.*

[26TH CONG.]

Mr. CASEY observed, that he had just learned there was no quorum present in the Senate; and, as there would probably be none to-day, he would move that the House adjourn.

The House adjourned.

## IN SENATE.

WEDNESDAY, December 9.

The Senate was called to order by the Hon. W. R. KING, President *pro tempore*.

The Hon. WILLIE P. MANGUM, elected by the Legislature of North Carolina a Senator from that State, for the unexpired term occasioned by the resignation of the Hon. BEDFORD BROWN, appeared, was qualified, and took his seat in the Senate.

A message was received from the House of Representatives, stating that a quorum of that body was assembled, and were ready to proceed to business.

A message was also received from the House of Representatives, stating that they had passed the following joint resolution:

*Resolved*, That a committee be appointed on the part of this House, to join such committee as may be appointed on the part of the Senate, to wait on the President of the United States, and inform him that a quorum of the two Houses is assembled, and that Congress is now ready to receive any communication he may be pleased to make.

And that Mr. TALIAFERRO and Mr. CAVE JOHNSON were appointed the said committee on the part of the House.

On motion of Mr. WRIGHT the message of the House was concurred in; whereupon Messrs. WRIGHT and HUNTINGDON were appointed the committee on the part of the Senate.

Mr. WRIGHT, from the Joint Committee appointed to wait on the President of the United States, and inform him that a quorum of the two Houses had assembled, and were ready to receive any communications he might be pleased to make, reported that they had performed that duty, and that the President had replied that he would immediately make a communication to them in writing.

*Message of the President.*

The following Message from the President of the United States was received by Mr. VAN BUREN, his private Secretary:

*Fellow-citizens of the Senate**and House of Representatives:*

Our devout gratitude is due to the Supreme Being for having graciously continued to our beloved country, through the vicissitudes of another year, the invaluable blessings of health, plenty, and peace. Seldom has this favored land been so generally exempted from the ravages of disease, or the labor of the husbandman more amply rewarded; and never before have our relations with other countries been placed on a more favorable basis than that which they so happily occupy at this critical conjuncture in the affairs of the world. A rigid

and persevering abstinence from all interference with the domestic and political relations of other States, alike due to the genius and distinctive character of our Government and to the principles by which it is directed; a faithful observance, in the management of our foreign relations, of the practice of speaking plainly, dealing justly, and requiring truth and justice in return, as the best conservatives of the peace of nations; a strict impartiality in our manifestations of friendship, in the commercial privileges we concede, and those we require from others: these, accompanied by a disposition as prompt to maintain, in every emergency, our own rights, as we are from principle averse to the invasion of those of others, have given to our country and Government a standing in the great family of nations, of which we have just cause to be proud, and the advantages of which are experienced by our citizens throughout every portion of the earth to which their enterprising and adventurous spirit may carry them. Few, if any, remain insensible to the value of our friendship, or ignorant of the terms on which it can be acquired, and by which it can alone be preserved.

A series of questions of long standing, difficult in their adjustment, and important in their consequences, in which the rights of our citizens and the honor of the country were deeply involved, have, in the course of a few years, (the most of them during the successful administration of my immediate predecessor,) been brought to a satisfactory conclusion; and the most important of those remaining are, I am happy to believe, in a fair way of being speedily and satisfactorily adjusted.

With all the powers of the world our relations are those of honorable peace. Since your adjournment, nothing serious has occurred to interrupt or threaten this desirable harmony. If clouds have lowered above the other hemisphere, they have not cast their portentous shadows upon our happy shores. Bound by no entangling alliances, yet linked by a common nature and interest with the other nations of mankind, our aspirations are for the preservation of peace, in whose solid and civilizing triumphs all may participate with a generous emulation. Yet it behooves us to be prepared for any event, and to be always ready to maintain those just and enlightened principles of national intercourse, for which this Government has ever contended. In the shock of contending empires, it is only by assuming a resolute bearing, and clothing themselves with defensive armor, that neutral nations can maintain their independent rights.

The excitement which grew out of the territorial controversy between the United States and Great Britain having in a great measure subsided, it is hoped that a favorable period is approaching for its final settlement. Both Governments must now be convinced of the dangers with which the question is fraught; and it must be their desire, as it is their interest, that this perpetual cause of irritation should be removed as speedily as practicable. In my last annual message you were informed that the proposition for a commission of exploration and survey promised by Great Britain had been received, and that a counter project, including also a provision for the certain and final adjustment of the limits in dispute, was then before the British Government for its consideration. The answer of that Government, accompanied by additional propositions of its own, was received, through its minister here, since

your separation. These were promptly considered; such as were deemed correct in principle, and consistent with a due regard to the just rights of the United States and of the State of Maine, concurred in; and the reasons for dissenting from the residue, with an additional suggestion on our part, communicated by the Secretary of State to Mr. Fox. That Minister, not feeling himself sufficiently instructed upon some of the points raised in the discussion, felt it to be his duty to refer the matter to his own Government for its further decision. Having now been for some time under its advisement, a speedy answer may be confidently expected. From the character of the points still in difference, and the undoubted disposition of both parties to bring the matter to an early conclusion, I look with entire confidence to a prompt and satisfactory termination of the negotiation. Three commissioners were appointed shortly after the adjournment of Congress, under the act of the last session providing for the exploration and survey of the line which separates the States of Maine and New Hampshire from the British Provinces; they have been actively employed until their progress was interrupted by the inclemency of the season, and will resume their labors as soon as practicable in the ensuing year.

It is understood that their respective examinations will throw new light upon the subject in controversy, and serve to remove any erroneous impressions which may have been made elsewhere prejudicial to the rights of the United States. It was among other reasons, with a view of preventing the embarrassments which, in our peculiar system of government, impede and complicate negotiations involving the territorial rights of a State, that I thought it my duty, as you have been informed on a previous occasion, to propose to the British Government, through its Minister at Washington, that early steps should be taken to adjust the points of difference on the line of boundary from the entrance of Lake Superior to the most North-western point of the Lake of the Woods, by the arbitration of a friendly power, in conformity with the seventh article of the treaty of Ghent. No answer has yet been returned by the British Government to this proposition.

With Austria, France, Prussia, Russia, and the remaining powers of Europe, I am happy to inform you our relations continue to be of the most friendly character. With Belgium, a treaty of commerce and navigation, based upon liberal principles of reciprocity and equality, was concluded in March last, and having been ratified by the Belgian Government, will be duly laid before the Senate. It is a subject of congratulation, that it provides for the satisfactory adjustment of a long-standing question of controversy, thus removing the only obstacle which could obstruct the friendly and mutually advantageous intercourse between the two nations. A messenger has been despatched with the Hanoverian treaty to Berlin, where, according to stipulation, the ratifications are to be exchanged. I am happy to announce to you that, after many delays and difficulties, a treaty of commerce and navigation between the United States and Portugal, was concluded and signed at Lisbon on the 24th of August last, by the plenipotentiaries of the two Governments. Its stipulations are founded upon those principles of mutual liberality and advantage which the United States have always sought to make the basis of their intercourse with foreign powers; and it is hoped they

will tend to foster and strengthen the commercial intercourse of the two countries.

Under the appropriation of the last session of Congress, an agent has been sent to Germany, for the purpose of promoting the interests of our tobacco trade.

The commissioners appointed under the convention for the adjustment of claims of citizens of the United States upon Mexico having met and organized at Washington, in August last, the papers in the possession of the Government, relating to those claims, were communicated to the board. The claims not embraced by that convention are now the subject of negotiation between the two Governments, through the medium of our Minister at Mexico.

Nothing has occurred to disturb the harmony of our relations with the different Governments of South America. I regret, however, to be obliged to inform you that the claims of our citizens upon the late Republic of Colombia have not yet been satisfied by the separate Governments into which it has been resolved.

The Charge d'Affaires at Brazil having expressed the intention of his Government not to prolong the treaty of 1828, it will cease to be obligatory upon either party on the 12th day of December, 1841, when the extensive commercial intercourse between the United States and that vast empire will no longer be regulated by express stipulations.

It affords me pleasure to communicate to you that the Government of Chili has entered into an agreement to indemnify the claimants in the case of the Macedonian, for American property seized in 1819; and to add, that information has also been received which justifies the hope of an early adjustment of the remaining claims upon that Government.

The commissioners appointed in pursuance of the convention between the United States and Texas, for marking the boundary between them, have, according to the last report received from our commissioners, surveyed and established the whole extent of boundary north along the western bank of the Sabine River, from its entrance into the Gulf of Mexico to the thirty-second degree of north latitude. The commission adjourned on the 16th of June last, to reassemble on the 1st of November, for the purpose of establishing accurately the intersection of the thirty-second degree of latitude with the western bank of the Sabine, and the meridian line thence to Red River. It is presumed that the work will be concluded in the present season.

The present sound condition of their finances, and the success with which embarrassments in regard to them, at times apparently insurmountable, have been overcome, are matters upon which the people and the Government of the United States may well congratulate themselves. An overflowing Treasury, however it may be regarded as an evidence of public prosperity, is seldom conducive to the permanent welfare of any people; and experience has demonstrated its incompatibility with the salutary action of political institutions like those of the United States. Our safest reliance for financial efficiency and independence has, on the contrary, been found to exist in ample resources unencumbered with debt; and, in this respect, the Federal Government occupies a singularly fortunate and truly enviable position.

When I entered upon the discharge of my official duties in March, 1837, the act for the distribution of the surplus revenue was in a course of rapid ex-

education. Nearly twenty-eight millions of dollars of the public moneys were, in pursuance of its provisions, deposited with the States in the months of January, April, and July, of that year. In May there occurred a general suspension of specie payments by the banks, including, with very few exceptions, those in which the public moneys were deposited, and upon whose fidelity the Government had unfortunately made itself dependent for the revenues which had been collected from the people, and were indispensable to the public service. This suspension, and the excesses in banking and commerce out of which it arose, and which were greatly aggravated by its occurrence, made, to a great extent, unavailable the principal part of the public money then on hand; suspended the collection of many millions accruing on merchants' bonds, and greatly reduced the revenue arising from customs and the public lands. These effects have continued to operate, in various degrees, to the present period; and, in addition to the decrease in the revenue thus produced, two and a half millions of duties have been relinquished by two biennial reductions under the act of 1833, and probably as much more upon the importation of iron for railroads, by special legislation.

Whilst such has been our condition for the last four years in relation to revenue, we have, during the same period, been subjected to an unavoidable continuance of large extraordinary expenses necessarily growing out of past transactions, and which could not be immediately arrested without great prejudice to the public interest. Of these, the charge upon the Treasury, in consequence of the Cherokee treaty alone, without adverting to others arising out of Indian treaties, has already exceeded five millions of dollars; that for the prosecution of measures for the removal of the Seminole Indians, which were found in progress, has been nearly fourteen millions; and the public buildings have required the unusual sum of nearly three millions.

It affords me, however, great pleasure to be able to say, that, from the commencement of this period to the present day, every demand upon the Government, at home or abroad, has been promptly met. This has been done, not only without creating a permanent debt, or a resort to additional taxation in any form, but in the midst of a steadily progressive reduction of existing burdens upon the people, leaving still a considerable balance of available funds which will remain in the Treasury at the end of the year. The small amount of Treasury notes, not exceeding four and a half millions of dollars, still outstanding, and less by twenty-three millions than the United States have in deposit with the States, is composed of such only as are not yet due, or have not been presented for payment. They may be redeemed out of the accruing revenue, if the expenditures do not exceed the amount within which they may, it is thought, be kept without prejudice to the public interest, and the revenue shall prove to be as large as may justly be anticipated.

Among the reflections arising from the contemplation of these circumstances, one, not the least gratifying, is the consciousness that the Government had the resolution and the ability to adhere, in every emergency, to the sacred obligations of law; to execute all its contracts according to the requirements of the constitution, and thus to present, when most needed, a rallying point by which the business of the whole country might be brought

back to a safe and unvarying standard—a result vitally important as well to the interests as to the morals of the people. There can surely now be no difference of opinion in regard to the incalculable evils that would have arisen if the Government, at that critical moment, had suffered itself to be deterred from upholding the only true standard of value, either by the pressure of adverse circumstances or the violence of unmerited denunciation. The manner in which the people sustained the performance of this duty was highly honorable to their fortitude and patriotism. It cannot fail to stimulate their agents to adhere, under all circumstances, to the line of duty; and to satisfy them of the safety with which a course really right, and demanded by a financial crisis, may, in a community like ours, be pursued, however apparently severe its immediate operation.

The policy of the Federal Government, in extinguishing as rapidly as possible the national debt, and, subsequently, in resisting every temptation to create a new one, deserves to be regarded in the same favorable light. Among the many objections to a national debt, the certain tendency of public securities to concentrate ultimately in the coffers of foreign stockholders, is one which is every day gathering strength. Already have the resources of many of the States, and the future industry of their citizens, been indefinitely mortgaged to the subjects of European Governments, to the amount of twelve millions annually, to pay the constantly accruing interest on borrowed money—a sum exceeding half the ordinary revenues of the whole United States. The pretext which this relation affords to foreigners to scrutinize the management of our domestic affairs, if not actually to intermeddle with them, presents a subject for earnest attention, not to say, of serious alarm. Fortunately, the Federal Government, with the exception of an obligation entered into in behalf of the District of Columbia, which must soon be discharged, is wholly exempt from any such embarrassment. It is also, as is believed, the only Government which, having fully and faithfully paid all its creditors, has also relieved itself entirely from debt. To maintain a distinction so desirable, and so honorable to our national character, should be an object of earnest solicitude. Never should a free people, if it be possible to avoid it, expose themselves to the necessity of having to treat of the peace, the honor, or the safety of the Republic, with the Governments of foreign creditors, who, however well disposed they may be to cultivate with us in general friendly relations, are nevertheless, by the law of their own condition, made hostile to the success and permanency of political institutions like ours. Most humiliating may be the embarrassments consequent upon such a condition. Another objection, scarcely less formidable, to the commencement of a new debt, is its inevitable tendency to increase in magnitude, and to foster national extravagance. He has been an unprofitable observer of events, who needs at this day to be admonished of the difficulties which a Government, habitually dependent on loans to sustain its ordinary expenditures, has to encounter in resisting the influences constantly exerted in favor of additional loans; by capitalists, who enrich themselves by Government securities for amounts much exceeding the money they actually advance—a prolific source of individual aggrandizement in all borrowing countries; by stockholders, who seek their gains in the rise and fall of pub-

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lic stocks; and by the selfish importunities of applicants for appropriations for works avowedly for the accommodation of the public, but the real objects of which are, too frequently, the advancement of private interests. The known necessity which so many of the States will be under to impose taxes for the payment of the interest on their debts, furnishes an additional and very cogent reason why the Federal Government should refrain from creating a national debt, by which the people would be exposed to double taxation for a similar object. We possess within ourselves ample resources for every emergency; and we may be quite sure that our citizens, in no future exigency, will be unwilling to supply the Government with all the means asked for the defence of the country. In time of peace there can, at all events, be no justification for the creation of a permanent debt by the Federal Government. Its limited range of constitutional duties may certainly, under such circumstances, be performed without such a resort. It has, it is seen, been avoided during four years of greater fiscal difficulties than have existed in a similar period since the adoption of the constitution, and one also remarkable for the occurrence of extraordinary causes of expenditures.

But to accomplish so desirable an object, two things are indispensable: first, that the action of the Federal Government be kept within the boundaries prescribed by its founders, and, secondly, that all appropriations for objects admitted to be constitutional, and the expenditure of them also, be subjected to a standard of rigid but well considered and practical economy. The first depends chiefly on the people themselves, the opinions they form of the true construction of the constitution, and the confidence they repose in the political sentiments of those they select as their representatives in the Federal Legislature; the second rests upon the fidelity with which their more immediate representatives, and other public functionaries, discharge the trusts committed to them. The duty of economizing the expenses of the public service is admitted on all hands; yet there are few subjects upon which there exists a wider difference of opinion than is constantly manifested in regard to the fidelity with which that duty is discharged. Neither diversity of sentiment, nor even mutual recriminations, upon a point in respect to which the public mind is so justly sensitive, can well be entirely avoided; and least so at periods of great political excitement. An intelligent people, however, seldom fail to arrive, in the end, at correct conclusions in such a matter. Practical economy in the management of public affairs can have no adverse influence to contend with more powerful than a large surplus revenue; and the unusually large appropriations for 1837, may, without doubt, independently of the extraordinary requisitions for the public service growing out of the state of our Indian relations, be, in no inconsiderable degree, traced to this source. The sudden and rapid distribution of the large surplus then in the Treasury, and the equally sudden and unprecedentedly severe revulsion in the commerce and business of the country, pointing with unerring certainty to a great and protracted reduction of the revenue, strengthened the propriety of the earliest practicable reduction of the public expenditures.

But, to change a system operating upon so large a surface, and applicable to such numerous and di-

versified interests and objects, was more than the work of a day. The attention of every department of the Government was immediately and in good faith, directed to that end; and has been so continued to the present moment. The estimates and appropriations for the year 1838 (the first over which I had any control) were somewhat diminished. The expenditures of 1839 were reduced six millions of dollars. Those of 1840, exclusive of disbursements for public debt and trust claims, will probably not exceed twenty-two and a half millions; being between two and three millions less than those of the preceding year, and nine or ten millions less than those of 1837. Nor has it been found necessary, in order to produce this result, to resort to the power conferred by Congress, of postponing certain classes of the public works, except by deferring expenditures for a short period upon a limited portion of them; and which postponement terminated some time since, at the moment the Treasury Department, by further receipts from the indebted banks, became fully assured of its ability to meet them without prejudice to the public service in other respects. Causes are in operation which will, it is believed, justify a still further reduction, without injury to any important national interest. The expenses of sustaining the troops employed in Florida have been gradually and greatly reduced, through the persevering efforts of the War Department; and a reasonable hope may be entertained that the necessity for military operations in that quarter will soon cease. The removal of the Indians from within our settled borders is nearly completed. The pension list, one of the heaviest charges upon the Treasury, is rapidly diminishing by death. The most costly of our public buildings are either finished, or nearly so; and we may, I think, safely promise ourselves a continued exemption from border difficulties.

The available balance in the Treasury on the first of January next is estimated at one million and a half of dollars. This sum, with the expected receipts from all sources during the next year, will, it is believed, be sufficient to enable the Government to meet every engagement, and leave a suitable balance in the Treasury at the end of the year, if the remedial measures connected with the customs and the public lands, heretofore recommended, shall be adopted, and the new appropriations by Congress shall not carry the expenditures beyond the official estimates.

The new system established by Congress for the safe-keeping of the public money, prescribing the kind of currency to be received for the public revenue, and providing additional guards and securities against losses, has now been several months in operation. Although it might be premature, upon an experience of such limited duration, to form a definite opinion in regard to the extent of its influences in correcting many evils under which the Federal Government and the country have hitherto suffered, especially those that have grown out of banking expansions, a depreciated currency, and official defalcations, yet it is but right to say that nothing has occurred in the practical operation of the system to weaken in the slightest degree, but much to strengthen the confident anticipations of its friends. The grounds of these have been heretofore so fully explained, as to require no recapitulation. In respect to the facility and convenience it affords in conducting the public service, and the ability of the Gov-

ernment to discharge through its agency every duty attendant on the collection, transfer, and disbursement of the public money with promptitude and success, I can say with confidence that the apprehensions of those who felt it to be their duty to oppose its adoption, have proved to be unfounded. On the contrary, this branch of the fiscal affairs of the Government has been, and it is believed may always be, thus carried on with every desirable facility and security. A few changes and improvements in the details of the system, without affecting any principles involved in it, will be submitted to you by the Secretary of the Treasury, and will, I am sure, receive at your hands that attention to which they may, on examination, be found to be entitled.

I have deemed this brief summary of our fiscal affairs necessary to the due performance of a duty specially enjoined upon me by the constitution. It will serve, also, to illustrate more fully the principles by which I have been guided in reference to two contested points in our public policy, which were earliest in their development, and have been more important in their consequences, than any that have arisen under our complicated and difficult, yet admirable, system of Government: I allude to a national debt, and a national bank. It was in these that the political contests by which the country has been agitated ever since the adoption of the constitution, in a great measure, originated; and there is too much reason to apprehend that the conflicting interests and opposing principles thus marshalled, will continue, as heretofore, to produce similar, if not aggravated, consequences.

Coming into office the declared enemy of both, I have earnestly endeavored to prevent a resort to either.

The consideration that a large public debt affords an apology, and produces, in some degree, a necessity also, for resorting to a system and extent of taxation which is not only oppressive throughout, but likewise so apt to lead, in the end, to the commission of that most odious of all offences against the principles of Republican government—the prostitution of political power, conferred for the general benefit, to the aggrandizement of particular classes, and the gratification of individual cupidity—is alone sufficient, independently of the weighty objections which have already been urged, to render its creation and existence the sources of bitter and unappeasable discord. If we add to this, its inevitable tendency to produce and foster extravagant expenditures of the public money, by which a necessity is created for new loans and new burdens on the people; and, finally, if we refer to the examples of every Government which has existed, for proof how seldom it is that the system, when once adopted and implanted in the policy of a country, has failed to expand itself, until public credit was exhausted, and the people were no longer able to endure its increasing weight, it seems impossible to resist the conclusion, that no benefits resulting from its career, no extent of conquest, no accession of wealth to particular classes, nor any, nor all its combined advantages, can counterbalance its ultimate but certain results—a splendid Government, and an impoverished people.

If a National Bank was, as is undeniable, repudiated by the framers of the constitution as incompatible with the rights of the States and the liberties of the people; if, from the beginning, it has been regarded by large portions of our citizens as

coming in direct collision with that great and vital amendment of the constitution, which declares that all powers not conferred by that instrument on the General Government are reserved to the States and to the people; if it has been viewed by them as the first great step in the march of latitudinous construction, which, unchecked, would render that sacred instrument of as little value as an unwritten constitution, dependent, as it would alone be, for its meaning, on the interested interpretation of a dominant party, and affording no security to the rights of the minority; if such is undeniably the case, what rational grounds could have been conceived for anticipating sought but determined opposition to such an institution at the present day.

Could a different result have been expected, when the consequences which have flowed from its creation, and particularly from its struggles to perpetuate its existence, had confirmed, in so striking a manner, the apprehensions of its earliest opponents; when it had been so clearly demonstrated that a concentrated money power, wielding so vast a capital, and combining such incalculable means of influence, may, in those peculiar conjunctures to which this Government is unavoidably exposed, prove an overmatch for the political power of the people themselves; when the true character of its capacity to regulate, according to its will and its interests, and the interests of its favorites, the value and production of the labor and property of every man in this extended country, had been so full and fearfully developed; when it was notorious that all classes of this great community had, by means of the power and influence it thus possesses, been infected to madness with a spirit of heedless speculation; when it had been seen that, secure in the support of the combination of influences by which it was surrounded, it could violate its charter, and set the laws at defiance with impunity; and when, too, it had become most apparent that to believe that such an accumulation of powers can ever be granted without the certainty of being abused, was to indulge in a fatal delusion?

To avoid the necessity of a permanent debt, and its inevitable consequences, I have advocated, and endeavored to carry into effect, the policy of confining the appropriations for the public service to such objects only as are clearly within the constitutional authority of the Federal Government; of excluding from its expenses those improvident and unauthorized grants of public money for works of internal improvement, which were so wisely arrested by the constitutional interposition of my predecessor, and which, if they had not been so checked, would long before this time have involved the finances of the General Government in embarrassments far greater than those which are now experienced by any of the States, of limiting all our expenditures to that simple, unostentatious, and economical administration of public affairs, which is alone consistent with the character of our institutions; of collecting annually from the customs, and the sales of public lands, a revenue fully adequate to defray all the expenses thus incurred, but, under no pretence whatsoever, to impose taxes upon the people to a greater amount than was actually necessary to the public service, conducted upon the principles I have stated.

In lieu of a national bank, or a dependence upon banks of any description, for the management of our fiscal affairs, I recommended the adoption of the system which is now in successful operation. That system affords every requisite facility for the transaction

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of the pecuniary concerns of the Government; will, it is confidently anticipated, produce in other respects many of the benefits which have been from time to time expected from the creation of a national bank, but which have never been realized; avoid the manifold evils inseparable from such an institution; diminish, to a greater extent than could be accomplished by any other measure of reform, the patronage of the Federal Government—a wise policy in all Governments, but more especially so in one like ours, which works well only in proportion as it is made to rely for its support upon the unbiassed and unadulterated opinions of its constituents; do away, forever, all dependence on corporate bodies, either in the raising, collecting, safe-keeping, or disbursing the public revenues, and place the Government equally above the temptation of fostering a dangerous and unconstitutional institution at home, or the necessity of adapting its policy to the views and interests of a still more formidable money-power abroad.

It is by adopting and carrying out these principles, under circumstances the most arduous and discouraging, that the attempt has been made, thus far successfully, to demonstrate to the people of the United States that a National Bank at all times, and a national debt, except it be incurred at a period when the honor and safety of the nation demand the temporary sacrifice of a policy, which should only be abandoned in such exigencies, are not merely unnecessary, but in direct and deadly hostility to the principles of their Government, and to their own permanent welfare.

The progress made in the development of these positions, appears in the preceding sketch of the past history and present state of the financial concerns of the Federal Government. The facts there stated fully authorize the assertion, that all the purposes for which this Government was instituted have been accomplished during four years of greater pecuniary embarrassments than were ever before experienced in time of peace, and in the face of opposition as formidable as any that was ever before arrayed against the policy of an Administration; that this has been done when the ordinary revenues of the Government were generally decreasing, as well from the operation of the laws, as the condition of the country, without the creation of a permanent public debt, or incurring any liability, other than such as the ordinary resources of the Government will speedily discharge, and without the agency of a National Bank.

If this view of the proceedings of the Government, for the period it embraces, be warranted by the facts as they are known to exist; if the army and navy have been sustained to the full extent authorized by law, and which Congress deemed sufficient for the defence of the country and the protection of its rights and its honor; if its civil and diplomatic service has been equally sustained; if ample provision has been made for the administration of justice and the execution of the laws; if the claims upon public gratitude in behalf of the soldiers of the Revolution have been promptly met and faithfully discharged; if there have been no failures in defraying the very large expenditures growing out of that long-continued and salutary policy of peacefully removing the Indians to regions of comparative safety and prosperity; if the public faith has at all times, and everywhere, been most scrupulously maintained by a prompt discharge of the numerous, extended, and diversified claims on the Treasury; if all these great and permanent objects, with many others that might be stated, have, for a

series of years, marked by peculiar obstacles and difficulties, been successfully accomplished without a resort to a permanent debt, or the aid of a national bank, have we not a right to expect that a policy, the object of which has been to sustain the public service independently of either of these fruitful sources of discord, will receive the final sanction of a people whose unbiassed and fairly elicited judgment upon public affairs is never ultimately wrong?

That embarrassments in the pecuniary concerns of individuals, of unexampled extent and duration, have recently existed in this, as in other commercial nations, is undoubtedly true. To suppose it necessary now to trace the reverses to their sources, would be a reflection on the intelligence of my fellow-citizens. Whatever may have been the obscurity in which the subject was involved during the earlier stages of the revulsion, there cannot now be many by whom the whole question is not fully understood.

Not deeming it within the constitutional powers of the General Government to repair private losses sustained by reverses in business having no connection with the public service, either by direct appropriations from the Treasury, or by special legislation designed to secure exclusive privileges and immunities to individuals or classes in preference to, and at the expense of, the great majority necessarily debarred from any participation in them, no attempt to do so has been either made, recommended, or encouraged, by the present Executive.

It is believed, however, that the great purposes for the attainment of which the Federal Government was instituted, have not been lost sight of. Intrusted only with certain limited powers, cautiously enumerated, distinctly specified, and defined with a precision and clearness which would seem to defy misconstruction, it has been my constant aim to confine myself within the limits so clearly marked out, and so carefully guarded. Having always been of opinion that the best preservative of the union of the States is to be found in a total abstinence from the exercise of all doubtful powers on the part of the Federal Government, rather than in attempts to assume them by a loose construction of the constitution, or an ingenious perversion of its words, I have endeavored to avoid recommending any measure which I had reason to apprehend would, in the opinion even of a considerable minority of my fellow-citizens, be regarded as trenching on the rights of the States, or the provisions of the hallowed instrument of our Union. Viewing the aggregate powers of the Federal Government as a voluntary concession of the States, it seemed to me that such only should be exercised as were at the time intended to be given.

I have been strengthened, too, in the propriety of this course, by the conviction that all efforts to go beyond this, tend only to produce dissatisfaction and distrust, to excite jealousies, and to provoke resistance. Instead of adding strength to the Federal Government, even when successful, they must ever prove a source of incurable weakness, by alienating a portion of those whose adhesion is indispensable to the great aggregate of united strength, and whose voluntary attachment is, in my estimation, far more essential to the efficiency of a Government strong in the best of all possible strength—the confidence and attachment of all those who make up its constituent elements.

Thus believing, it has been my purpose to secure to the whole people, and to every member of the



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confederacy, by general, salutary, and equal laws alone, the benefit of the Republican institutions which it was the end and aim of the constitution to establish, and the impartial influence of which is, in my judgment, indispensable to their preservation. I cannot bring myself to believe that the lasting happiness of the people, the prosperity of the States, or the permanency of their Union, can be maintained by giving preference or priority to any class of citizens in the distribution of benefits or privileges, or by the adoption of measures which enrich one portion of the Union at the expense of another, nor can I see in the interference of the Federal Government with the local legislation and reserved rights of the States, a remedy for present, or a security against future, dangers.

The first, and assuredly not the least, important step towards relieving the country from the condition into which it had been plunged by excesses in trade, banking, and credits of all kinds, was to place the business transactions of the Government itself on a solid basis; giving and receiving in all cases value for value, and neither countenancing nor encouraging in others that delusive system of credits from which it has been found so difficult to escape, and which has left nothing behind it but the wrecks that mark its fatal career.

That the financial affairs of the Government are now, and have been during the whole period of these wide-spreading difficulties, conducted with a strict and invariable regard to this great fundamental principle, and that by the assumption and maintenance of the stand thus taken on the very threshold of the approaching crisis, more than by any other cause or causes whatever, the community at large has been shielded from the incalculable evils of a general and indefinite suspension of specie payments, and a consequent annihilation, for the whole period it might have lasted, of a just and invariable standard of value, will, it is believed, at this period, scarcely be questioned.

A steady adherence, on the part of the Government, to the policy which has produced such salutary results, aided by judicious State legislation, and, what is not less important, by the industry, enterprise, perseverance, and economy of the American people, cannot fail to raise the whole country, at an early period, to a state of solid and enduring prosperity, not subject to be again overthrown by the suspension of banks or the explosion of a bloated credit system. It is for the people, and their representatives, to decide whether or not the permanent welfare of the country (which all good citizens equally desire, however widely they may differ as to the means of its accomplishment) shall be in this way secured; or whether the management of the pecuniary concerns of the Government, and, by consequence, to a great extent, those of individuals, also, shall be carried back to a condition of things which fostered those contractions and expansions of the currency, and those reckless abuses of credit, from the baleful effects of which the country has so deeply suffered—a return that can promise, in the end, no better results than to reproduce the embarrassment the Government has experienced; and to remove from the shoulders of the present to those of fresh victims, the bitter fruits of that spirit of speculative enterprise to which our countrymen are so liable, and upon which the lessons of experience are so unavailing. The choice is an important one, and I sincerely hope that it may be wisely made.

A report from the Secretary of War, presenting a detailed view of the affairs of that department, accompanies this communication.

The desultory duties connected with the removal of the Indians, in which the army had been constantly engaged on the Northern and Western frontiers, and in Florida, have rendered it impracticable to carry into full effect the plan recommended by the Secretary for improving its discipline. In every instance where the regiments have been concentrated, they have made great progress; and the best results may be anticipated from a continuance of this system. During the last season, a part of the troops have been employed in removing Indians from the interior to the territory assigned them in the West—a duty which they have performed efficiently, and with praiseworthy humanity; and that portion of them which has been stationed in Florida continued active operations there throughout the heats of summer.

The policy of the United States in regard to the Indians, of which a succinct account is given in my message of 1838, and of the wisdom and expediency of which I am fully satisfied, has been continued in active operation throughout the whole period of my administration. Since the spring of 1837, more than forty thousand Indians have been removed to their new homes west of the Mississippi; and I am happy to add that all accounts concur in representing the result of this measure as eminently beneficial to that people.

The emigration of the Seminoles alone has been attended with serious difficulty, and occasioned bloodshed, hostilities having been commenced by the Indians in Florida, under the apprehension that they would be compelled by force, to comply with their treaty stipulations. The execution of the treaty of Payne's Landing, signed in 1832, but not ratified until 1834, was postponed, at the solicitation of the Indians, until 1836, when they again renewed their agreement to remove peaceably to their new homes in the West. In the face of this solemn and renewed compact, they broke their faith, and commenced hostilities by the massacre of Major Dade's command, the murder of their agent, General Thompson, and other acts of cruel treachery. When this alarming and unexpected intelligence reached the seat of Government, every effort appears to have been made to reinforce General Clinch, who commanded the troops then in Florida. General Eustis was despatched with reinforcements from Charleston, troops were called out from Alabama, Tennessee, and Georgia, and General Scott was sent to take the command, with ample powers and ample means. At the first alarm, General Gage organized a force at New Orleans, and, without waiting for orders, landed in Florida, where he delivered over the troops he had brought with him to General Scott.

Gov. Call was subsequently appointed to conduct a summer campaign, and, at the close of it, was replaced by General Jesup. These events and changes took place under the administration of my predecessor. Notwithstanding the exertions of the experienced officers who had command there for eighteen months, on entering upon the administration of the Government I found the Territory of Florida a prey to Indian atrocities. A strenuous effort was immediately made to bring these hostilities to a close; and the army, under General Jesup, was reinforced until it amounted to ten thousand men, and furnished with abundant supplies of every description. In this campaign a great number of the

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many were captured and destroyed; but the character of the contest only was changed. The Indians, having been defeated in every engagement, dispersed in small bands throughout the country, and became an enterprising, formidable, and ruthless banditti. General Taylor, who succeeded General Jesup, used his best exertions to subdue them, and was seconded in his efforts by the officers under his command; but he, too, failed to protect the Territory from their depredations. By an act of signal and cruel treachery, they broke the truce made with them by General Macomb, who was sent from Washington for the purpose of carrying into effect the expressed wishes of Congress, and have continued their devastations ever since. General Armistead, who was in Florida when General Taylor left the army by permission, assumed the command, and, after active summer operations, was met by propositions for peace; and, from the fortunate coincidence of the arrival in Florida, at the same period, of a delegation from the Seminoles who are happily settled west of the Mississippi, and are now anxious to persuade their countrymen to join them there, hopes were for some time entertained that the Indians might be induced to leave the Territory without further difficulty. These hopes have proved fallacious, and hostilities have been renewed throughout the whole of the Territory. That this contest has endured so long, is to be attributed to causes beyond the control of the Government. Experienced generals have had the command of the troops; officers and soldiers have alike distinguished themselves for their activity, patience, and enduring courage; the army has been constantly furnished with supplies of every description; and we must look for the causes which have so long procrastinated the issue of the contest, in the vast extent of the theatre of hostilities, the almost insurmountable obstacles presented by the nature of the country, the climate, and the wily character of the savages.

The sites for marine hospitals on the rivers and lakes, which I was authorized to select and cause to be purchased, have all been designated, but, the appropriation not proving sufficient, conditional arrangements only have been made for their acquisition. It is for Congress to decide whether those conditional purchases shall be sanctioned, and the humane intentions of the law carried into full effect.

The navy, as will appear from the accompanying report of the Secretary, has been usefully and honorably employed in the protection of our commerce and citizens in the Mediterranean, the Pacific coast, and the coast of Brazil, and in the Gulf of Mexico. A small squadron, consisting of the frigate *Constellation* and the sloop-of-war *Boston*, under Commodore Kearney, is now on its way to the China and Indian Seas, for the purpose of attending to our interests in that quarter; and Commander Aulick, in the sloop-of-war *Yorktown*, has been instructed to visit the Sandwich and Society Islands, the coasts of New Zealand and Japan, together with other ports and islands frequented by our whale-ships, for the purpose of giving them countenance and protection, should they be required. Other smaller vessels have been, and still are, employed in prosecuting the surveys on the coast of the United States, directed by various acts of Congress; and those which have been completed will shortly be laid before you.

The Exploring expedition, at the latest date, was preparing to leave the Bay of Islands, New Zealand, in further prosecution of objects which have thus far

been successfully accomplished. The discovery of a new continent, which was first seen in latitude  $66^{\circ} 2'$  south, longitude  $154^{\circ} 27'$  east, and afterwards in latitude  $66^{\circ} 31'$  south, longitude  $153^{\circ} 40'$  east, by Lieutenants Wilkes and Hudson, for an extent of eighteen hundred miles, but on which they were prevented from landing by vast bodies of ice which encompassed it, is one of the honorable results of the enterprise. Lieutenant Wilkes bears testimony to the zeal and good conduct of his officers and men; and it is but justice to that officer to state that he appears to have performed the duties assigned to him with an ardor, ability, and perseverance, which give every assurance of an honorable issue to the undertaking.

The report of the Postmaster General, herewith transmitted, will exhibit the service of that Department the past year, and its present condition. The transportation has been maintained during the year to the full extent authorized by the existing laws; some improvements have been effected, which the public interest seemed urgently to demand, but not involving any material additional expenditure; the contractors have generally performed their engagements with fidelity; the postmasters, with few exceptions, have rendered their accounts and paid their quarterly balances with promptitude; and the whole service of the department has maintained the efficiency for which it has for several years been distinguished.

The acts of Congress establishing new mail routes, and requiring more expensive services on others, and the increasing wants of the country, have, for three years past, carried the expenditures something beyond the accruing revenues; the excess having been met, until the past year, by the surplus which had previously accumulated. That surplus having been exhausted, and the anticipated increase in the revenue not having been realized, owing to the depression in the commercial business of the country, the finances of the department exhibit a small deficiency at the close of the last fiscal year. Its resources, however, are ample; and the reduced rates of compensation for the transportation service, which may be expected on the future lettings, from the general reduction of prices, with the increase of revenue that may reasonably be anticipated from the revival of commercial activity, must soon place the finances of the department in a prosperous condition.

Considering the unfavorable circumstances which have existed during the past year, it is a gratifying result that the revenue has not declined, as compared with the preceding year, but, on the contrary, exhibits a small increase; the circumstances referred to having had no other effect than to check the expected income.

It will be seen that the Postmaster General suggests certain improvements in the establishment, designed to reduce the weight of the mails, cheapen the transportation, insure greater regularity in the service, and secure a considerable reduction in the rates of letter postage—an object highly desirable. The subject is one of general interest to the community, and is respectfully recommended to your consideration.

The suppression of the African slave-trade has received the continued attention of the Government. The brig *Dolphin* and schooner *Grampus* have been employed during the last season on the coast of Africa, for the purpose of preventing such portions of that trade as was said to be prosecuted under the

American flag. After cruising off those parts of the coast most usually resorted to by slavers, until the commencement of the rainy season, these vessels returned to the United States for supplies, and have since been despatched on a similar service.

From the reports of the commanding officers, it appears that the trade is now principally carried on under Portuguese colors; and they express the opinion that the apprehension of their presence on the slave coast, has in a great degree arrested the prostitution of the American flag to this inhuman purpose. It is hoped that, by continuing to maintain this force in that quarter and by the exertions of the officers in command, much will be done to put a stop to whatever portion of this traffic may have been carried on under the American flag, and to prevent its use in a trade, which, while it violates the laws, is equally an outrage on the rights of others and the feelings of humanity. The efforts of the several Governments who are anxiously seeking to suppress this traffic must, however, be directed against the facilities afforded by what are now recognized as legitimate commercial pursuits, before that object can be fully accomplished. Supplies of provisions, water-casks, merchandise, and articles connected with the prosecution of the slave-trade, are, it is understood, freely carried by vessels of different nations to the slave factories; and the effects of the factors are transported openly from one slave station to another, without interruption or punishment by either of the nations to which they belong, engaged in the commerce of that region. I submit to your judgment whether this Government, having been the first to prohibit, by adequate penalties, the slave-trade—the first to declare it piracy—should not be the first, also, to forbid to its citizens all trade with the slave factories on the coast of Africa; giving an example to all nations in this respect, which, if fairly followed, cannot fail to produce the most effective results in breaking up those dens of iniquity.

M. VAN BUREN.

WASHINGTON, December 5, 1840.

The Message having been read,

On motion by Mr. HUBBARD,

*Ordered*, That the Message and accompanying documents be printed; and that five thousand copies of the Message, and fifteen hundred copies of the Message and accompanying documents, be printed for the use of the Senate.

#### *Death of Hon. John S. Spence.*

Mr. MERRICK rose and addressed the Senate as follows:

Mr. PRESIDENT: Like all other human enjoyments, the gratification of meeting and interchanging our mutual congratulations again on this occasion, is not unmixt with painful and melancholy reflection. To me, in an especial manner, are the circumstances under which I now rise to address you afflicting. Yonder vacant seat, sir, explains the cause. My most excellent and estimable colleague, the honorable JOHN S. SPENCE, who for the last several years filled that chair with honor to himself, and advantage to his country, is no more. He closed his useful and valuable life in the latter part of the month of October last, at his residence, in Worcester county, Maryland, surrounded by his amiable and interesting family,

and at peace with God and man. He was, it will be remembered, in languid health, during great part of our last session, and was often detained from his place here by that cause, which finally obliged him to leave the seat of Government, and retire to his own home some time before the adjournment. From the disease which then afflicted him, he never perfectly recovered; though there was occasional relief from suffering, there was no effectual cure, and he has now left these and all sublunary scenes forever. He has at different periods of his life, filled many of the most important and honorable trusts in the gift of the people of his State, always possessing, always deserving their entire confidence. His course through life was much more of the useful than brilliant order; possessed of a very large stock of sterling worth and virtue, there was about him nothing of ostentatious display. Ever content with the consciousness of doing his duty well and faithfully, he was careless of all other rewards. None knew him who did not honor and esteem him; and all who knew him will join with me in saying that he has left no purer man behind him.

Mr. MERRICK then offered the following resolutions, which were unanimously adopted:

*Resolved*, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of the honorable JOHN S. SPENCE, late a member thereof, will go into mourning, by wearing crape on the left arm for thirty days.

*Resolved*, That as an additional mark of respect for the memory of the honorable JOHN S. SPENCE, the Senate do now adjourn.

The Senate then adjourned.

THURSDAY, December 10.

Mr. MANGUM presented the credentials of the Hon. WILLIAM R. GRAHAM, elected by the General Assembly of the State of North Carolina, a Senator for the unexpired term occasioned by the resignation of the Hon. ROBERT STRANGE.

Mr. GRAHAM was then qualified, and took his seat in the Senate.

The PRESIDENT communicated the credentials of the Hon. WILLIE P. MANGUM, elected by the Legislature of North Carolina, a Senator from that State, for the unexpired term occasioned by the resignation of the Hon. BEDFORD BROWN; and also, for the term of six years from the 4th of March next.

Mr. SEVIER presented the credentials of the Hon. W. S. FULTON, elected by the General Assembly of Arkansas, a Senator from that State for six years, from the 4th of March next.

#### *Permanent Prospective Pre-emption Law.*

Mr. BENTON gave notice that, at as early a day as the attendance of the Senators would enable him, he would ask leave to introduce a bill for a permanent prospective pre-emption law in favor of the hardy and industrious settlers upon our public lands—the log-cabin men.

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As the session was a short one, he was desirous of taking the earliest opportunity of asking leave to introduce this measure in favor of the tenants of log-cabins, and he wished the vote on granting leave to be a test vote on the merits of the proposition.

## HOUSE OF REPRESENTATIVES.

THURSDAY, December 10.

*The Amistad Africans.*

Mr. ADAMS offered the following resolution; which was read for information:

*Resolved*, That a Select Committee of five members be appointed, with liberty to send for persons and papers, to ascertain and report to this House whether the printed House document of the last session, No. 186, has been falsified; materially differing from the manuscript document transmitted by the President of the United States; and if so, by whom the said falsification was made.

Mr. A., after an explanation of the nature of the document, (which is a translation from the Spanish of the papers relating to the African negroes of the *Amistad*), observed that his object in offering the resolution was, first, that justice might be done to the President of the United States, and to the officer employed as translator in the State Department; and, second, that it might, if possible, be ascertained by whom the fraud had been perpetrated, if it should prove to be a fraud, and not a blunder. He then went on to argue that this erroneous translation would have a very important bearing on the case of the negroes in question, whose trial would come on in the Supreme Court in January, inasmuch as the fraudulent translation of the passport would make them out as slaves, whereas the proper translation would show that they were free men.

Mr. A., after reading copious extracts from a pamphlet on the subject by Judge W. Jay, of New York, concluded by expressing a hope that the resolution would be adopted forthwith.

The question was then taken on the adoption of the resolution; and it was agreed to, as follows—ayes 87, noes 46.

*New Member.*

The Hon. HENRY M. BROCKENRIDGE, of Pennsylvania, elected to supply the vacancy occasioned by the resignation of the Hon. RICHARD BIDDLE, appeared, was qualified, and took his seat.

## IN SENATE.

MONDAY, December 14.

*Permanent Prospective Pre-emption Law.*

Agreeably to the notice given when the Senate was last in session, Mr. BENTON rose to ask leave to bring in a bill for the establishment of a permanent prospective pre-emption law in favor of settlers on the public lands, and pre-

ferred his motion for the leave he was about to ask, with some remarks upon the character of the bill he proposed to introduce, the appropriateness of the present time for bringing it forward, the general utility of the pre-emption system, and the public expectation to see it now permanently established. He said that the pre-emption laws heretofore passed were temporary in their duration, and retrospective in their operation: they were only made to include settlers up to a limited day, and to remain in force for a limited period. The latest act of this kind was passed on the 80th day of June last, and only included the settlers to that day. The subsequent settlers received no benefit from that act: they were now without protection from law; and it was unjust and unequal to make any distinction between the settlers before and since that day. All were equally entitled to legislative protection, and so would be all future settlers; and instead of extending this protection from time to time, by temporary and limited laws, it was just and proper to provide for all cases at once, the future as well as the existing cases, by establishing a permanent prospective pre-emption system, to operate regularly and uniformly in all time to come.

This, said Mr. B., has always been the object of the friends of the pre-emption laws; they always looked to a permanent system; and considered the temporary acts which were passed as merely stepping-stones and entering wedges to the main object. This has been constantly expressed, and sometimes attempted; and the auspicious moment for a successful effort, so long desired, seems now to have arrived. All parties are now in favor of the policy which leads to the permanent pre-emptive system. The summer of 1840, and the Presidential canvass which has just terminated, has produced, or developed, a unanimity of sentiment on this desirable point. The actual President (Mr. Van Buren) has long been in favor of this policy, and has so expressed himself in repeated Messages to Congress; the President elect (General Harrison) is represented to be favorable to it also, and has had the benefit of that representation in the late Presidential canvass; the Democracy are the known advocates of pre-emptions, and fought them up, in many hard-contested actions, to victory and popularity; the Federalists, long their enemy, have now seen the error of their ways, and have become the foremost supporters of the policy they had opposed. The poor man, and his synonyme, the log-cabin, have become the absorbing objects, and the burning themes, of their love and eloquence. They celebrate them in all forms, and wear the sign of the cabin in every article of dress and furniture. Now the cabin, the poor man, and the pre-emption, go together; and he that loves one, must love the other. The triple affections go together; and in these affections the Federalists of 1840 have shown themselves to be most deeply immersed.

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The gentlemen of this party have betaken themselves to the love of log-cabins, and all their paraphernalia, with the fury and incontinence of a sudden and romantic affection. They build them with their own hands, and piously dedicate them—they sing, dance, drink, and speak in them—they attend them day and night—they decorate them with appropriate trappings, with gourds, coon skins, buck horns, beaver traps, and whatever else denotes the real cabin of the poor man, and the pre-emptioner—they devote themselves to the service of these rude edifices with a zeal unknown to the degeneracy of modern times. Like Pygmalion, they become madly enamored of the work of their own hands, and deliver up their lives to the enjoyment of its contemplation.

Mr. B. said it would be inexcusable in the friends of the pre-emption system not to take advantage of this favorable conjunction of parties and circumstances, to press the interests of the real inhabitants of the log cabins—the frontier men of the new States and territories—whose enterprise lays open the wilderness, whose courage protects the infant settlements, and whose labor reflects value upon the national domain. This is the man whose toil demands our protection. He builds a cabin, not in the city, but in the woods; not with music and feasting, and crowded help, but solitary and alone, and with privation of every thing which could give joy to the task. He proceeds upon hope!—upon the hope that the rude tenement which he builds may be his own! that the secluded spot which he has selected may become his! that no heartless speculator may come to rob him of both! In a word, he hopes that a pre-emption law may be passed! Now, said Mr. B., let us help this lonely and meritorious man: let us help him to build his log-cabin: let us give courage to his heart, strength to his arm, and comfort to his spirit, by securing to him the pre-emptive right to the soil on which he builds. It is all he asks, and while our great cities—even this metropolis, and all the capitals and commercial emporiums of all the States—still retain the evidences of Federal love for log-cabins; while these erections, so lately put up, still retain their unusual position in public squares, and on magnificent streets, side by side with the splendid mansion which no longer disdains its humble companion: while all this still exists, and still salutes our eyes, and while the proud architects of these city cabins are still here, on this floor, to legislate among us, let us extend our regard to the cabin in the woods, and grant to its inhabitant the only favor which he solicits—that of protection from the speculator, in the house which he has built, in the field which he has cleared, and in the soil which he cultivates.

Mr. B. then offered his bill, which was read as follows:

A BILL to establish a permanent prospective pre-emption system, in favor of settlers on the public

lands, who shall inhabit and cultivate the same, and raise a log-cabin thereon.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That from and after the passage of this act, every head of a family, every widow, and every single man over the age of eighteen years, who shall make a settlement on any of the public lands to which the Indian title has been, or shall be, extinguished, whether the same be surveyed or not, or who may have settled on such land since the 30th day of June, 1840, and who shall inhabit and improve the same, and raise a log-cabin thereon, shall be entitled to a pre-emption in the purchase of one quarter section, to be paid for at the minimum price of such land at the time of paying for the same.

SEC. 2. *And be it further enacted,* That where the improvement and the settlement shall be on different quarter sections, the settler shall make choice of the quarter he will take, provided it can be done without prejudice to the rights of others.

SEC. 3. *And be it further enacted,* That where the quantity of one hundred and sixty acres cannot be obtained in one entire quarter section, the deficiency may be made up out of any contiguous vacant ground.

SEC. 4. *And be it further enacted,* That in the execution of this act, and in making up the quantity of one hundred and sixty acres where the same cannot be had entire, the entries may be made in tracts of eighty acres, or forty acres, or in fractions; and where the fraction shall be more than the quantity required to complete the pre-emption, the excess shall be paid for, and the pre-emptive right shall extend to the whole fraction.

SEC. 5. *And be it further enacted,* That where two or more persons shall have settled on the same quarter section, the same shall be divided between them, and the deficiency made up to each out of contiguous vacant ground: but no wilful intruder on the known rights of another shall be entitled to any benefit under this section.

SEC. 6. *And be it further enacted,* All legal reservations of public lands for any purpose whatever shall be exempted from the operation of this act, so that no right of pre-emption shall accrue on any such reserves.

SEC. 7. *And be it further enacted,* That all questions in relation to pre-emption claims, or between claimants to the same quarter section, shall be settled summarily and definitively by the Register and Receiver of the district, under the instructions of the Commissioner of the General Land Office.

The bill having been read,

Mr. BEXTON said as the session was a short one, and did not afford time for the courtesy usually extended upon the introduction of bills, he hoped it would be waived in the present instance, and that each Senator would vote upon the question of its second reading in accordance with his opinion of the merits of the bill; and he would ask the yeas and nays upon ordering it to a second reading.

Mr. HUBBARD wished to look into the bill before he was called upon to vote either for or against it, and hoped that the Senator from Missouri would permit it to be postponed until

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*Death of Mr. Ramsey of Pennsylvania.*

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to-morrow, and printed; which was agreed to, and the bill ordered to be printed.

#### *Election of Chaplain.*

The Senate then proceeded to the election of Chaplain, and the ballots having been counted, the PRESIDENT announced the following as the result:

Whole number of ballots, - - -	89
For Rev. Mr. COOKMAN, - - -	25
Rev. Mr. THORNTON, - - -	10
Rev. Mr. SHAW, - - -	4

So Mr. COOKMAN was declared to be duly elected.

The Senate then adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, December 14.

#### *Death of Mr. Anderson of Kentucky.*

Mr. THOMPSON, of Kentucky, rose and announced to the House that SIMON H. ANDERSON, his predecessor in this Congress from the fifth district in Kentucky, had departed this life, at his residence in Garrard county, since the last session. Mr. T. remarked that his death was a public calamity, because the country, in the morning of his life, and as his career of usefulness upon a new theatre had just commenced, had been deprived of one of her most promising sons. In the councils of his native State, he had rendered services to that State, and achieved for himself an enviable reputation; without opposition, and by the undivided suffrage of his district, he had been returned a member for this Congress. His bearing as a gentleman was a true evidence of the moral worth and integrity of purpose that characterized the man. His brief services here had not fully manifested to this body the rich attainments and high order of intellect that, combined with his private virtue, had secured to him not only public confidence at home, but also that respect and attachment which all the better sympathies of social life ever accord to merit and worth. The bar of which he was a member and an ornament, in his native State, regret his untimely death; his district feels the loss. Allied with the best blood of the State, he has left a young family to mourn the sad bereavement of a kind parent and an affectionate husband. Mr. T. presented the following resolutions as a token of condolence to that family, and as the last kind office and tribute of respect we can pay to the memory of one who yet lives in the cherished remembrances and affections of his friends, his relatives, and of the State of which he was a favorite child, and on whom she rested high and proud hopes of future usefulness and eminence. There is allotted to but few a better and brighter fortune than seemed to await him. The sentiment that "they whom the Gods love die young," was a tender delusion of heathen superstition, in this instance, he trusted, but exemplified and adopted by a wise and mysterious dispensation of

the Christian's Providence. The malediction, "May you die from home," was an imprecation he had no enemy malevolent enough to utter, and he now reposes as he lived and died, surrounded by his household and friends.

*Resolved*, That this House with deep regret have heard the announcement of the death of SIMON H. ANDERSON, of Kentucky, late a member of this Congress.

*Resolved*, That to testify their regard for the deceased, and as an evidence of the sympathy they feel, and hereby tender to his surviving relatives, they will wear crapes on the left arm for thirty days.

*Resolved*, As a further testimony of respect for the deceased, that when this House adjourn to-day, it adjourn to to-morrow.

#### *Death of Mr. Ramsey of Pennsylvania.*

Mr. LEET addressed the House as follows:

Mr. SPEAKER: In accordance with a practice which has been sanctioned by long usage, I rise to discharge a painful duty; in doing which I feel sure the House will sympathize with me. I rise, sir, to announce the death of WILLIAM STERRETT RAMSEY, who was a distinguished member of the Pennsylvania delegation, and represented the Cumberland district. He died suddenly in October last, in the city of Baltimore, somewhat remote from the bosom of his near relatives, but where, however, there were not wanting friends to show appropriate marks of respect to his memory. His death was not less sudden than melancholy. From early infancy he was afflicted with feeble health, and a weak constitution.

Having been called by the people of his district to serve them in the National Legislature of his native country, and desirous to execute the trust reposed in him, he struggled through the last unusually arduous and exciting session, in the discharge of his duties, in a manner alike honorable to himself, gratifying to his friends, and satisfactory to his constituents. At the close of the session, he found his constitution rapidly yielding to the ravages of a confirmed consumption; and during the recess of Congress, in the youth of his days, with the fairest earthly prospects before him, (could he have lived to realize them,) and at a time when one would think he might be buoyant with hope, he sunk a victim to gloomy melancholy, leaving numerous devoted friends to lament his premature and deplorable death. I have never been able to feel *fully* the propriety of panegyric on occasions like this—it excites little or no interest where the subject of it is unknown, and cannot reach *his* ear, nor enhance his character in the esteem of those who knew his goodness, his talents, and his virtues. I may be indulged, however, in simply saying, that Mr. RAMSEY, as a man, was liberal and kind; and, as a friend, was true and faithful: he enjoyed the advantages of an accomplished education received in this country, and he visited some of the most famous places in Europe, in the anxious pursuit of knowledge, and for the improve-

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ment of his health. Some time after his return from Europe, he was in 1838 elected to the 26th Congress, and in 1840 was again returned by a generous and enlightened constituency to the 27th Congress. But, alas! he is now no more—he died a high-minded and honorable man.

Without making further remarks, I ask the House to pay the customary tribute of respect to the memory of a deceased member, by adopting the resolutions which I hold in my hand, and now send to the Chair.

*Resolved*, That the members of this House will testify their respect for the memory of WILLIAM STERRETT RAMSEY, by wearing crape on the left arm for thirty days.

*Resolved*, That this House do now adjourn.

The above resolutions were then adopted,

And the House adjourned until to-morrow at 12 o'clock.

## IN SENATE.

TUESDAY, December 15.

*Repeal of the Independent Treasury Law.*

The following resolution submitted yesterday by Mr. CLAY, of Kentucky, was taken up for consideration, viz:

*Resolved*, That the act entitled "An act to provide for the collection, safe-keeping, transfer, and disbursement of the public revenue," ought to be forthwith repealed; and that the Committee on Finance be instructed to report a bill accordingly.

Mr. CLAY said it was no part of his purpose, in offering his resolution, to invite or partake in an argument on any question that might arise out of the great measure to which the resolution relates. It was, then, no purpose on his part to enter into any argument. He would as lief argue to a convicted criminal, with a rope round his neck, and the cart about to leave his body, to prove to him that his conviction was according to law and justice, as to prove that this Sub-Treasury measure ought to be abandoned. He had brought forward the resolution in the shape in which he had presented it to the Senate, because he thought it was his duty so to do. The ordinary course of legislation—the usual practice, he was aware, in repealing existing laws—was to move a resolution of instruction, addressed to a committee, and directing an inquiry into the expediency of the measure, or to ask leave to introduce a bill to repeal the measure which it was wished to get rid of. But there were occasions when that ordinary form, he presumed, might, and ought to be dispensed with. If they looked for examples to the only period which bears any analogy to that which exists at this moment—he meant the period of 1800, when Jefferson came into power, but under circumstances far different, and in a contest more equal and of doubtful issue than that which has brought the present men into power—if they looked back to that period, and saw the alien law, not limited and temporal, but of permanent duration—could

they not suppose that it would have been idle and ridiculous to move a resolution of inquiry as to the expediency of repealing that most odious measure? But respecting this Sub-Treasury, about which they had had about three years and three months' argument—a period longer than the last war with Great Britain, and half as great as the war of the Revolution—under these circumstances, discussion of the measure would seem to be unnecessary and misplaced; it was sufficient for him to say that the nation wills the repeal of the measure—the nation decrees the repeal of the measure—the nation commands the repeal of the measure—and the representatives of nineteen States were sent there instructed to repeal it. They might dispute about what was or was not involved in the issue of the late Presidential contest; they might contend that that contest affirmed this or that principle or measure, and they might dispute about it: he knew it was the practice of gentlemen to whom it was his misfortune to be opposed in that Senate, after elections, to contend that this election sanctions this or puts down that measure, and that election demonstrates that the people are in favor of this and opposed to that measure, whether Sub-Treasury or a United States Bank, and there might be a controversy about the matter; but on one point it was impossible there could be diversity of opinion, either here or elsewhere; and that is, that this nation, by one of the most tremendous majorities ever given in our nation's annals, whatever else it may have decided, has decided against this Sub-Treasury measure. And when the nation speaks—when the nation wills—when the nation commands, what is to be done? There was no necessity to go through the form of referring to a committee to inquire into the expediency of doing what the public sentiment required. What Senator would stand there in his place and say he opposed himself to the will of the nation?

But a word as to the effect of a repeal of this measure. What is the effect of the operation of the present Sub-Treasury system? It was said to be very successful. This was announced in the Message, and repeated in the report of the Secretary of the Treasury. He should, however, have been pleased if those documents had gone into details respecting the operation of this measure, showing how it had altered the business and the relations of the country, and the receipts and disbursements of the revenue. But, so far, it was said it had satisfied all their expectations, and was in successful operation. Now he (Mr. CLAY) thanked God he was far removed from any one of the Receivers General—nay, he wished he was farther removed; but he should be glad to know where had been its successful operation. Perhaps the Senator from New Hampshire (Mr. HUBBARD) might communicate the information. He should be glad to learn how it had successfully operated, from that illustrious Senator who had ably and elo-

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quently defended the Secretary of the Treasury on all occasions; and he must say that it was a most ungrateful return for those services, to treat him as he had been treated at a recent election for United States Senator for the State of New Hampshire. He should be glad, however, to learn from him, (Mr. HUBBARD,) and from the gentleman who was at the head of the Committee on Finance, in detail, what had been the operation of this Sub-Treasury system—how it was acting—how it was working—how it was varying the financial and commercial and manufacturing affairs of the country. He would tell them what he understood it to be, though he was separated from many of these Receivers General. He understood that there was not the slightest difference prevailing now, from what, before the 4th of July last, was the system in operation. He understood that now, as then, the notes of all the specie-paying banks were received by the collectors, and transferred to the Receivers General. He understood the process was this: A merchant of New York has a large sum to pay—say \$100; well, he gives a check to a specie-paying bank—he pays no money, but the check is endorsed specie—and he gives another check with no endorsement whatever; both are carried to the bank, and are carried to the credit—true, not of the Government—but of the Receiver General in his private account, as a private transaction. Well, they all knew, whatever might be endorsed on the check for \$100 or \$300, that they were both cash paper, convertible into specie, and this was the usage prior to the 4th of July last; and the paper of no bank which did not pay specie was received by the collector of the public revenue, but the paper of banks paying specie was. It is now received, and it was so received before the 4th of July, taking New York as an example for illustration. The revenue, when collected by the collector, was paid into the bank to the account of Jesse Hoyt—to his private account, over which the Government had no control—and now he passed it over to Paul or to Saul Allen, who had also an account with the bank, over which the Government had no control or direction. Well, then, the whole revenue of the United States, amounting to nineteen millions, according to the estimates of the current and the next year, but thirteen millions as actually received during the present year—the whole revenue of the United States, at some time or other, passed through the hands and was kept in the custody of private individuals, who stood credited for the amount on the books of some bank or banks to which they had resort. Well, then, if he were not mistaken, it was very clear the operation of the system, so far, had been exceedingly limited, and in the event of a repeal, which was proposed in that resolution, the result would be that the administration of the Treasury Department will revert back to the state of things prior to the 4th of July, or rather it will continue the same state of things which yet existed, without interfering

with the financial affairs of the Government. He hoped for another result, should he succeed in obtaining a concurrence with his resolution—he hoped that an account would be opened, as in olden times, as in safe times, and in times of regular administration of the Government, with the Treasurer of the United States. But he contended that, whatever inconveniences could result from a repeal of the measure, that was no consideration for them. Their duty was marked out by the public opinion, and, for one, he was disposed to obey its instruction which, to nineteen States of this Union, had been given.

Mr. WRIGHT said he came from one of the nineteen States alluded to by the Senator from Kentucky, and he was happy to say to that Senator, that he rejoiced to find it was the disposition of the party about to come into power to make precisely the issue tendered by this resolution. He thanked that Senator, therefore—as he would have done yesterday when the resolution was presented, had it been proper—for presenting that proposition to them. He could say to that Senator, that for one—and perhaps he could say it with more propriety than any other member of that body—he did not desire further to discuss that measure either before the Senate or the country; he could only say, that when the Senate was called upon to act upon the proposition, he was desirous that it should be with an understanding of what it is, and that the Senate might be as full as may be, consistent with the attendance of members in the city. To-day he did not desire to act upon it, for one Senator, now in town, was sick and not able to be in his place; and another left town after the last adjournment of the Senate prior to yesterday, with the confident expectation of returning last evening, who had not yet resumed his seat; but if there was a disposition in the Senate to act upon the resolution, and make an expression which would not mislead the public mind, he should desire that expression to be made now, and upon this resolution. It would be a work of supererogation, in a short session like this, to pass the resolution, and instruct a committee to report a bill for the proposed repeal, without any expectation that the bill would meet the approbation of the Senate. Hence he wished that all the members in attendance might be present when the vote should be taken. But he could not excuse himself if he allowed the opportunity to pass without some slight reference to the remarks of the Senator by whom the resolution had been introduced. That Senator had become deeply impressed with the result of the late election; and on the point whether it was or was not a full and free and fair expression of the popular will, he (Mr. WRIGHT) did not stand there to express an opinion. He would merely call to the honorable Senator's mind that they had just passed through the first election under this Government, when principles on the part of the dominant party were not de-



clared, when measures were not avowed, and when men stood before the country, not to proclaim to the people their principles and measures, but to apologize for saying nothing in reference to their measures or the policy which they proposed to adopt. That being the case, the Senate would pardon him for calling their attention to the fact, that he, and other Senators who had sat there with him from 1832 and 1833 to the present time, had seen election after election, when it was the fashion of candidates and of parties to avow their principles, and had heard the honorable Senator, with an ingenuity which cannot be surpassed, parry the issue his (Mr. WRIGHT's) friends had made, and contend, almost with success, that nothing was prejudged by the popular voice in those popular elections. Take the very measure which it was now proposed to repeal, and what was the judgment of the people, and what was the public expression at the Congressional elections of 1838 and 1839? Then, if ever, a distinct issue or proposition was presented to the people of this country. That was the issue that was pending during the war of more than three years' duration, of which the honorable Senator had spoken—that was the only point in controversy; and what was the result? There was a popular branch of the National Legislature unfavorable to this measure in 1837 and 1838, and was returned in its place in 1838 and 1839, favorable to it; and it was adopted in pursuance of a pronouncement of the will of the people of this country, pending the controversy as to the measure itself. That popular mind may have changed—it may be different now; but if it be, and if the pronouncement of the popular opinion has been against the Independent Treasury, of what measure, as substitute, has it been in favor? Has the pronouncement of the late election declared the popular voice of the country to be in favor of a National Bank? Will the Senator contend that it was so, and will his party assume it? Or has it declared in favor of the policy of another political party, and a return to the system of State bank deposits? Would the honorable Senator admit that? He (Mr. WRIGHT) did not say the honorable Senator would admit either or both; but he had a right to ask the question.

But the Senator says the result of the late election has been a triumphant pronouncement against this measure. How is it ascertained? By what declaration of policy or principle on the part of that party which has become predominant? Why, he should suppose—and he made the remark without intending disrespect anywhere—if the result of the late election could be claimed as proving any thing, it was to prove that they were to take down the splendid edifice in which he then stood, and erect a log-cabin in its place—that instead of the rich draperies and valuable pictures before them, they were to hang around their chamber coon skins, cat skins, and other trophies of the chase. But the Senator does not claim such to

be our duties, resulting from the late expression of the popular will. No, such is not, and has not been, the result of the pronouncement of the will of the freemen of this country; and yet, could they not prove such conclusions with double force and double testimony over that which the honorable Senator seeks now to establish—the condemnation of the Sub-Treasury measure? And yet they were called upon to be silent, to submit, and to obey this foregone decree. Against the popular pronouncement made at the late elections, he should not intentionally utter one word—the decision of the people he should respect; for they were yet, thank God, the highest tribunal known to our country, and her institutions. When the powers which that election has brought into existence shall constitutionally take their places, he should be one of those who, whether as a private citizen, or in the high position in which he then stood, would be found ready to render a constitutional submission; but he was not ready to admit that, in rendering its verdict, the popular voice had pronounced its decision against this measure; or if it had, that it had decided in favor of any other measure in its place. What, then, was the argument of the gentleman in favor of this precipitate repeal? Was it that the measure was doing mischief to the country, and was working evil to the people? He (Mr. WRIGHT) did not understand him to say so. It was that it was not carried out in its terms and spirit—that the law was not observed, but that it was violated by the officers appointed under it. Well, the honorable Senator might be right, for he (Mr. WRIGHT) had not that acquaintance with banking institutions which would enable him to pronounce on the fact. If that were so, however, did it follow that the law must be repealed, because the law was not observed? And should they expect from the honorable Senator that mode of getting rid of a salutary law which was not executed? Should not, rather, an inquiry be instituted to ascertain whether the officers did discharge their duty? He knew not what the fact might be anywhere, but he confessed it would have pleased him better if the honorable gentleman had consented to take Philadelphia instead of New York, as an example; and he knew the New York banks were specie-paying banks; and he knew it was the constructive duty of the Receiver General to receive three-fourths of the revenue there in the notes of specie-paying banks; but does the Philadelphia Receiver General take checks upon non-specie-paying banks? And if the Receiver General of New York, instead of compelling the merchants to bring specie to his vaults, takes a certified check that is payable in specie, and presents it for payment himself, is the law violated, or is the community injured? What, then, is the argument? Why, there had been but little salutary influence from the practical operation of this law, and therefore it was better to repeal it. Repeal it for what? To take the revenues

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out of the reach of Congress, and place them again where they had virtually been since the suspension of the banks in 1837, until the passage of the law—in the hands of the Executive? Will it be better to put them exclusively in Executive hands, or to keep them within the power and provisions of a law, even if it does not suit the Senator, until a better system can be devised? What is the course of wisdom, and what has been the popular voice in the matter? But he was going further than he had intended, and therefore he should suspend further remark. He did not desire to foreclose the debate by a motion to postpone now, but when the Senate came to act upon this resolution, he desired that the decision should be the sense of the Senate, and of as full a Senate as the attendance of members of the Senate in the city would permit. For the present he would only ask that the vote be taken by ayes and noes.

Mr. CALHOUN said he had supposed that the party about to come into power would have been content with their decisive victory, and that the business of the session would be allowed to go on quietly, without calling up any of the exciting topics that entered into the late canvass, or anticipating the measures belonging properly to the coming Administration. The country has just passed through one of the most agitating canvasses it ever had, and it is time it should have repose; and he, for one, had determined, if it should not, it would not be his fault. Without adverting to the past, he had made up his mind to wait, and form no opinion till General Harrison had assumed his high and responsible office, and developed the principles and policy on which he intended to administer the Government, in an official and responsible form. If he should, in good faith, by practice, as well as profession, adopt the course which the Senator from Kentucky (Mr. CLAY) had assured us he would; if his Administration shall be one of retrenchment and economy, deep and thorough, for they are both much needed; if it shall be opposed to a national debt, funded or unfunded; if against the improper extension of Executive power, and shall be opposed to the use of its patronage as the means of rewarding mere partisan service; and if, finally, as intimated in the canvass by the distinguished Senator from Massachusetts, (Mr. WEBSTER,) it should be conducted on the good old but much derided doctrines of Jefferson, it should not only have his approbation, but his cordial and cheerful support, notwithstanding his objections to the means by which his election was secured. But he would rather have these declarations officially from General Harrison himself, than from the honorable Senator, however high his authority might be considered. I (said Mr. C.) never have played, and never intend to play, the game of in and out in politics. It is unsuited to the nature of our Government, and unbecoming those invested with the high and sacred trust of administering

it. His course was immovably made up. He would give the coming Administration his support in all measures which his judgment approved, and opposition to all which it disapproved; and, if he was found in systematic opposition, it would be because of systematic departure from the principles and policy which he believed to be essential to the prosperity and liberty of the Union.

With these views, he could not, with the Senator from New York, regard with pleasure the introduction of this resolution. On the contrary, he regarded it with regret, because it was calculated to keep up the excitement of the late canvass, and prevent the repose which naturally follows the deep agitation through which the country has just passed, and which is necessary to that calm review, without which it is impossible to correct past errors, and turn them to profitable account in future. Let the people have an interval of eight or nine months, from the end of this session to the commencement of the next, to think over calmly and deliberately the past, and the course that ought to be taken hereafter, and much profit will result to the country. Viewed in this light, he not only regretted the introduction of the resolution, but the ground on which the Senator puts the repeal of the measure contemplated. He assumes the ground that the people had decided against the Sub-Treasury in the late election. He (Mr. CALHOUN) doubted the fact. The election decided nothing but that General Harrison should be elected President for the next term; and he entered his solemn protest against the attempt to make any other inference the basis of our official action; and in doing so, he but took the ground taken by the Senator and those with whom he acted, when it was attempted to construe in a similar manner a former election to have decided against the renewal of the charter of the United States Bank, and in favor of certain measures to which he was opposed. He (Mr. CALHOUN) regarded every attempt at such inference to be dangerous and unconstitutional. No one had a higher regard for the voice of the people than he had; but he could only recognize it in his official acts, when pronounced through its proper organ, and on the subject, and to the extent only, which the constitution made it binding. Thus thinking, he bowed in obedience to their voice, uttered in the late election, that General Harrison should be the next President, but to that extent only could he here, in his place as Senator, recognize it.

It is not only against the genius of our system to extend it farther, but idle to attempt to extend it to the measure the Senator has. Who is there that does not know that in the late canvass the great issue—who should be President—depended on a thousand others, direct and indirect, of which the Sub-Treasury was but one? Who does not remember that the imputed extravagance of the Administration, the report of one of the Secretaries on the militia question, Hooe's case, and innumerable

other objections, were made to the present incumbent, as well as countless numbers urged in favor of his opponent, in addition to his objection to the Sub-Treasury? They must all have been supposed to influence the result, or surely they would not have been so zealously and incessantly urged by those who advocated the claims of the successful candidate. How, then, can gentlemen now turn round, and tell us that there was but a single question at issue, and that question the Sub-Treasury?

But he, Mr. C., desired to speak with perfect candor. Though he by no means considered it certain, yet there was reason to fear that a majority of the community was opposed to that highly important measure. If such should turn out to be the fact, he would regret it profoundly; but are gentlemen certain that there is a majority in favor of any alternative measure that can be presented, and that there is not a majority in its favor, against any such alternative? That is the point. Let me tell gentlemen, when they come to the real question—not only whether the Sub-Treasury shall be repealed, but what shall be substituted, they will not find so easy a victory as they expect. That is the question which you must meet, and it will be in vain to attempt to elude it. As to one of the only two possible alternatives—he referred to the repudiated and condemned pet bank system—which the gentleman had so justly denounced so far back as 1834, on the question of the removal of the deposits, as the most fallacious, rickety, and corrupt system: which could be adopted, which they prophesied, and truly prophesied, would explode and blow up its authors, he took it for granted that there was no danger of that being imposed on the country by the coming Administration. He trusted that would not be the result of all the late agitation, and the decided victory they had achieved.

As to the other alternative—a National Bank—he would not go into that now. It will be time enough, after General Harrison comes in, and recommends it to our adoption, if, with his constitutional objections, he ever should. But come when that time might, if it ever should, he should stand up and resist it with every faculty, and all the energy, which nature had bestowed on him; for, as he lived, he believed the day on which a National Bank shall be established, with a capital of fifty or a hundred millions, and twenty years' duration, and with power and privileges sufficient to control the currency and business of the country, would be the end of our liberty, and would as effectually create a sovereign power, as if General Harrison were elected President for life, with the right of succession in his descendants, and even more so.

To either of these, the much-abused Sub-Treasury will be found to be the only alternative. Condemned and vilified as it was, the country, if it desired to preserve its free institutions, must come to it; nor was it less for the

advantage of the banks themselves, than the country, that it should. Yes, for the banks; he knew what he said; he weighed every word. He regarded those the greatest enemies, in reality, to the banks, however kind their intention, who would force them again into a union with the Government, against the deep conviction of the injustice, impolicy, and unconstitutionality of such union, of a powerful and determined party, not much inferior in numbers than their opponents, if tested even by the late election; for, however strong the vote of the electoral college, the popular vote in favor of General Harrison did not much exceed one hundred thousand out of upwards of two millions of votes. If, against the fixed opinion of this powerful and resolute party, the coming Administration should force a reunion between banks and Government, they would, at the same time, force them into the political arena of party conflict, which could not fail to overthrow the whole system in its convulsive movements. He warned the banks, and those interested in them, against the fatal tendency of their indiscreet friends, who would, under such circumstances, force the reunion. He was no enemy to the existing banks, while he had no confidence in the system as it existed in this country and Great Britain. He believed that banks of issue and circulation were founded on a mistake, and must run down, by their own inherent defects, against every effort to stay their descent, and had long thought so; but he made no war on them, and never had. They were running down of themselves, according to his impression, too fast for the good of the country, and his policy was to retard, and not accelerate their descent. He acted on the same principle in 1834, when the deposits were removed; and in obedience to it, urged a course, which, if it had been adopted, would have saved the country and banks from the disasters which have since followed. On the same principle he acted at the extra session in 1837, and had ever since, in advocating the separation of the Government from the banks as the only means of extricating them from politics, and leaving them quietly to be reformed or run out, under the action of an enlightened and calm public opinion. He was, and ever had been, adverse to all sudden and forced measures in reference to the currency, even as applied to our system, as bad as he believed it to be.

In addition to the supposed condemnation of the Sub-Treasury by the people at the late election, the Senator urged another reason for its repeal, that it would make no practical change. He says that the practice under the existing law is, in reality, the same as it was before its passage, and would be after the repeal. If so, why then this haste to repeal it? Why agitate the country, so anxiously seeking repose, on a subject acknowledged by him to be wholly immaterial? Why not allow the measure to go on quietly, until he and his party came into power, and then they could act deliberately on

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the subject, and not only repeal a measure they consider so obnoxious, but also present their substitute, so as to afford the community a fair opportunity of deciding between them? But be the practice under it what it may, the difference between the two states of things, that which now exists and that which would if the measure proposed by this resolution should be adopted, is far, very far, from being so immaterial as the Senator seems to suppose. The Sub-Treasury, as established by law, be it wise or not, is, at all events, legal and constitutional. No one can deny that; but should the Senator's resolution succeed, and the act be repealed, he would restore the state of things which he, and those with whom he has acted, have contended, for these three years, to be illegal and unconstitutional, and which placed the control over the public money wholly under the discretion of the Executive! Is that nothing?

As to the practice, if it be such as the Senator supposes, he (Mr. CALHOUN) held it directly contrary to law, and that the officer who had dared to practise it, deserved punishment and expulsion from office. If the Senator desired to pursue the subject, and would move a resolution to ascertain the facts, it should have his support. He would be the last to protect any officer, high or low, in the violation of law.

Mr. ANDERSON said: The gentleman said that the recent election of General Harrison was an implied instruction to Senators coming from the nineteen States which had supported him, to repeal that measure. Sir, I deny that this inference is just; and a strong objection to the resolution proposed by the honorable gentleman is, that it is not supported by such an issue in the late canvass as to make it conclusive. I deny that the Independent Treasury was the inducing cause to the success of General Harrison. It was not the exclusive issue. Following, sir, the example set by the older Senators of both parties, I mingled among the people in this contest, and knew that other questions had a much more powerful effect—questions which were made to go home to their hopes and their fears—and that they did not consider this as the great issue upon which they were to decide. The extraordinary pressure of the times, some peculiar circumstances, and the military services of General Harrison, advancing in the lead of the mass of questions, had a most powerful agency in producing the result! Who, sir, can forget that his military pretensions were urged with great ardor and eloquence upon this floor by the gentleman from South Carolina, who usually sits opposite to me—and by the gentleman from Kentucky, who sits to my right on the other side of the House. And can we fail to advert to the very fountain from which sprang all their success—their convention at Harrisburg? There they solemnly resolved that they would make no formal declaration of their opinions—no, sir, none. The thing was to be left to the individual skill and judgment of their partisans; and now, after the

close of the contest, the first step to be taken is an absolute demand, upon this floor, that Congress shall declare, in effect, that *such was the issue made and decided before the people*. The very avowal of the Senator from Kentucky, when pressed by the Senator from New York upon the subject of the United States Bank, as the antagonist measure to the Independent Treasury, that "sufficient for the day is the evil thereof," is mysterious, but equivalent to the declaration that the Independent Treasury was the great exclusive issue before the people. I utterly deny this inference. There were numerous issues, and a combination of causes, which it is unnecessary to repeat.

I trust that I would be among the last men deliberately to attempt, in a representative capacity, to disobey the instructions of my constituents. But, sir, no instructions, such as insisted upon, have been made; and the honorable gentleman will find, when he submits the true issue of a United States Bank as the antagonist of the Independent Treasury, the decision of the people will, in all probability, be against the former. Then, and not till then, shall we have the true issue, and the true result.

Mr. HUBBARD said: The resolution proposes to instruct the Committee on Finance to report a bill providing for the immediate repeal of the Sub-Treasury act; it is presented to the same Senate; it proposes to bring the subject before the very Congress which, but a few months past, enacted this very measure. Sir, I could not have believed that any member of this body would urge upon the Senate the repeal of this measure, which had been adopted after so much debate, after so much reflection, and after so much consideration. But, I again say, that the proposition has been presented; let us now meet it manfully, and with a determination to review the whole ground. I cannot say, with the Senator from South Carolina, that I regret that this proposition has been brought forward. I can say that I did not anticipate it. I can assure the Senator from Kentucky, before us as it is, it cannot silently be disposed of. It must, and I trust it will, be debated, and fully debated. Let the whole ground which has heretofore been occupied in argument, be re-examined; and let it be made to appear, if it can be, that our positions are untenable, and that our arguments are fallacious, and that the measure itself ought to be abandoned. If all that can be shown, then, for one, I shall be prepared to vote for its repeal; but until that can be done, I will sustain the measure, essentially connected, as I believe it to be, with the best interests of the country, with what little ability I possess. What are the reasons, Mr. President, which have induced the honorable Senator from Kentucky to offer his resolution? He says that the result of the late election is an expression of the deliberate judgment of the American people in relation to this measure. That they have spoken, in language too plain to be misunderstood, their utter condemnation of this Sub-

Treasury system. That they have demanded at our hands its immediate repeal. Sir, I utterly deny the fact, and I stand here saying that no man has the right to make any such deductions from the result of the recent Presidential election. The declaration is unwarranted, in my judgment, from the facts known to have existed during that canvass. What right has the Senator to say that any such issue was made up before the American people? Where is the evidence of it? Who ever heard from the party newspapers of the day, that the new dynasty intended a repeal of the Sub-Treasury, and that an appeal was ever made to the people, urging upon them the propriety of changing the present Administration, so as effectually to put down "this bill of abominations," as they were pleased to call it? Others may have seen such avowals, but if they existed, they wholly escaped my observation. No declaration was made by the great Convention at Harrisburg against this Sub-Treasury policy, which had been in operation for years before. No such manifesto has been published since by any convention opposed to the present Administration. This was not the issue made up before the American people.

It may have been intended—it was certainly not avowed—and until this resolution was offered, who has ever heard that it was the purpose of the Opposition to bring about a repeal of the Sub-Treasury, without, at the same time, presenting some other measure in its stead?

Mr. President, I well recollect that soon after the Convention at Harrisburg, and just before the spring elections in Virginia, a document was sent forth under the authority of an Executive Committee. And was the Administration assailed in that document for its Independent Treasury operations? No, sir; the Administration was attacked for its alleged wastefulness, its profligacy and corruption, in relation to the public expenditures. It was attacked for attempting to palm upon the country a standing army of two hundred thousand militia. It was the expenses of the Administration, and Mr. Poinsett's militia report, which constituted the grounds of attack in the document to which I have referred; and they constituted the great burden of the Opposition song in my country, from the close of the late session of Congress, until the day of election. Had the direct proposition been submitted to the American people, "Will you continue the Independent Treasury system as it is, or will you go back to the State bank deposit system as it was in 1836?" what think you, sir, would have been their decision? For one, I entertain no doubt, if the people could have been left to the exercise of their sober judgment, that they would have returned a clear verdict in favor of this great measure of the present Administration. And just so would it have been had the question been a Bank of the United States or a continuance of the present system. But no such issue was made, and, of consequence, no such decision

has been given as has been alleged. No such inference can fairly be drawn from the result of the late election.

Mr. ALLEN then moved to amend the resolution, by striking out all after the word "resolved," and insert the following:

"That the financial policy established at the origin of this Government, by the first acts of its legislation, and especially by the 30th section of the 'Act to regulate the collection of duties, &c.,' approved by President Washington, July 31st, 1789, and by the 4th section of the 'Act to establish the Treasury Department, &c.,' approved by President Washington, September, 21, 1789, was in strict conformity to the fundamental principles of the constitution.

"Resolved, That, by a long series of subsequent acts tending to the great detriment of the public welfare, that policy has been departed from, and was, by the 'Act to provide for the collection, safe-keeping, transfer, and disbursement of the public revenue,' approved by President Van Buren, July 4, 1840, fully restored, and ought to be adhered to; and therefore.

"Resolved, That the Government ought to collect no more taxes from the people, either directly or indirectly, than are absolutely necessary to an economical administration of its affairs.

"Resolved, That the taxes paid by the people ought not to be lent out by the Government to individuals or to corporations.

"Resolved, That the taxes so paid by the people, ought not to be placed by the Government in the custody of agents who are not made by the constitution and the laws responsible to the people.

"Resolved, That in the transaction of its own affairs, the Government ought to receive and to tender in payment as money, nothing but that which is made a legal tender by the constitution."

On motion of Mr. WEBSTER, the resolution was laid on the table, and the substitute was ordered to be printed,

And the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, December 15.

#### *Election of Chaplain.*

The House again proceeded to the election of a Chaplain.

Mr. BRAXTON having received a majority of all the votes given, was declared duly elected.

#### *Relations with China.*

Mr. ADAMS offered the following resolution:

Resolved, That the President of the United States be requested to cause to be communicated to this House, so far as may be compatible with the public interest, copies of all documents in the Department of State, showing the origin of any political relations between the United States and the empire of China—the first appointment of a consul to reside at or near Canton—whether such consul, or any other subsequently appointed, has ever been received or recognized in that capacity, and the present relations between the Government of the United States and that of the Celestial Empire.

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*Pension to Hannah Leighton.*

[DECEMBER, 1840.]

This resolution was read; but, before any question had been put thereon, The House adjourned.

WEDNESDAY, December 16.

*Commercial Relations with China.*

The resolution having been again read, (see above,)

Mr. ADAMS, after some remarks showing the importance of ascertaining what are the true political and commercial relations between this Government and China, observed it was highly desirable in the present critical state of affairs with the latter country, that we should know whether our Consul had been recognized by it or not. He wished to know the exact footing on which we stand. Mr. A., in adverting to some documents presented at the last session, said he believed it appeared from one of them, that when our Consul was about to present a memorial from American citizens at Canton, he was directed by the authorities to place the name of the Emperor of China *two inches higher* than the name of the President of the United States. This he thought was the *true* ground of war now raging between Great Britain and China—this placing the name “two inches higher”—this boasted superiority over every nation on earth.

But, continued Mr. A., I hope to see the day when this boasted claim to superiority shall cease, and that at least the name of the President of the United States shall be written on a *parallel line* with that of the head of the Celestial Empire. Mr. A. said that, in offering the resolution, he was actuated by no motive but a desire for information as to what was passing between the United States and China at this time, and whether any officer, representing the interests of this country, had been recognized by that power.

Mr. CUSHING was glad that his colleague had introduced the resolution calling for information on so important a subject. He thought, however, that information not less valuable might be obtained from the files of the Navy Department, and hoped an amendment would be accepted to embrace that department. He therefore proposed to amend the resolution by adding “State or other Departments.”

The amendment was accepted by Mr. ADAMS, and the resolution, as amended, was adopted.

THURSDAY, December 17.

*New Member.*

The Hon. JOHN MOORE, member elect from the State of Louisiana, in the place of RICHARD GARLAND, resigned, was duly qualified, and took his seat.

*British Outrage at Schlosser.*

On motion of Mr. FILLMORE,

*Resolved*, That the President of the United States be requested to communicate to this House, (if not

in his opinion incompatible with the public interest,) all the correspondence between this Government and that of Great Britain, or the officers and agents of either, or the officers and agents of this Government with the President or any of its Departments, which has not heretofore been communicated to this House, on the subject of the outrage of burning the Caroline on the Niagara frontier; and whether there is any prospect of compensation being made to the owner of said boat for the loss thereof; and also whether any communications have been made to this Government in regard to the arrest and imprisonment of ——— McLeod, by the authorities of the State of New York, for being concerned in said outrage; and if so, that he communicate a copy thereof to this House.

IN SENATE.

TUESDAY, December 22.

*Pension to Hannah Leighton.\**

The bill granting a pension to Hannah Leighton being taken up,

Mr. PIERCE stated the object of this bill, and the claims of the applicant on the bounty of the Government.

Mr. WRIGHT said this was a case which appealed rather to their sympathies than to any established principle. He awarded to the Committee on Pensions, from whom it came, his thanks, and he said they deserved the thanks of the country, for their faithfulness and attention to their duties, and therefore it gave him pain to oppose them on this occasion; but he considered this bill was establishing a precedent for the extension of the pension list that would be fearful and dangerous, and therefore he could not allow it to pass in silence.

Mr. PIERCE said this subject was discussed at some length at the last session, and it would be recollected that the applicant for this pension was the widow of the first officer who fell in the war of the Revolution; and under the peculiar circumstances of the case, the committee had recommended the granting of this pension, though differing from the usual principle—that of actual service for six months—the husband of this poor woman having fallen in the first engagement.

Mr. KING recollected the case well, and knew it had been pressed on Congress, because it was a strong case, and one that appealed to their sympathies, to depart from the fixed rule of Congress; but if they departed from that rule in one case, where were they to stop? He had before felt compelled to oppose it, and should do so again, from a sense of what he conceived to be right.

\* It does not come within the scope of this Abridgment to give debates on private petitions, such debates being generally of only personal or local interest; but where they connect themselves with early history, exceptions are admitted: and of this character are the circumstances attending this case of the aged widow Leighton, who, above three score years before, became the young widow Davis from British bullets at Lexington.

Mr. CALHOUN said the statements made this day respecting the naval pensions, afforded them a striking lesson how they created new precedents. Plunder, and not pension, was the proper word to apply to many of the sums claimed as navy pensions; and in this class, if they once went beyond the rigid rule of justice, they would open the way to a similar squandering of the public money. He was of opinion that the last man that fell in the Revolution was equally meritorious with the first; and he regretted that the committee had brought forward this proposition, while he awarded to them the praise to which the faithful discharge of their duties had entitled them. He hoped that the Senate would not yield to their feelings of humanity, but adhere to a strict rule of justice; and that he might have an opportunity to record his vote, he called for the yeas and nays.

Mr. PIERCE said, as this bill had been fully debated at the last session, and passed by a large majority on yeas and noes, he had hoped it would have not been deemed necessary to have called for them now. The force of the remarks of the Senator from South Carolina, (Mr. CALHOUN,) that they ought to adhere to a line of rigid justice, he did not comprehend. What had Congress done from time to time? Why, they had extended the pension law, as would be well remembered, to include the widows of such Revolutionary soldiers as were married prior to the expiration of their last term of service. In 1838 it was extended to the widows of such soldiers as married prior to 1794, and now it was known almost to every one in that chamber, that it included the cases of the widows of soldiers who had seen no service, if their names had been enrolled for six months. In his judgment, if the rule of rigid justice had been adhered to, pensions would have been given to the widows of all those who fell upon the field of battle during the Revolution, rather than to those who entered the army near the close of the war, and who had not seen more than six months' service, and who, consequently, had not been acquainted with the sufferings and the deprivations of those who participated in the conflict from the beginning. Who could say that rigid justice would not afford relief to this poor widow sooner than to those to whom it was granted under the law of 1836 and 1838? She was in indigent circumstances: the case was a strong one, and appealed to their justice, to their feelings of humanity, and he hoped the small sum proposed to be given to her by the bill would not be withheld.

Mr. CALHOUN said he considered the pension list no more than a great system of charity, and he maintained that the pension to men for six months' service was an imposition, and to assume the name of pension was a fraud on the public. It went under the name of charity, but its true name was plunder.

Mr. CRITTENDEN said it was a case that stood

by itself—it was different morally, socially, and in every other point, as this was an application in favor of the widow of the first man that fell in the Revolution, when there was no regularly organized Government. That man, stirred by his own patriotism, without a country, he might almost say, went forward to make and create, and then to defend that country. Should he then be told that this case would not be distinguished both in the hearts and reasons of men, from the case of others under an organized Government? Such a statement would not reach his understanding, nor his feelings. He hoped this bill would be passed, and that this nation would not longer remain under the reproach of refusing a piece of bread to maintain this poor widow of a Revolutionary soldier, who received his death wound under such circumstances. He, too, would call for the yeas and noes, that he might record his vote; and if there were abuses, let those that commit them take the responsibility.

Mr. CALHOUN said this happened to be the first case, and the Senator had said it was distinguished from the last. Now it would be recollected that the last case—the man killed by the last gun that was fired in the war of independence, was the gallant Col. John Laurens, who was then acting as a volunteer, and who had rendered important diplomatic services to his country while in Europe; and he believed his family was now in a helpless condition. Now, he asked, if the case of the last man was not as strong as the case of the first? Was not the case of the man who went gallantly through from the beginning to the end of the contest, and who bore the brunt of the battle, as good as that of the man who fell at the onset?

Mr. WEBSTER said, as there were some Senators present who were not here last year, he would relate the circumstances of this case, but he should neither adorn nor illustrate it. All readers of our history know that on the evening of the 18th of April, 1775, the British army left Boston to proceed to Concord, where the colonial stores were collected, to seize those stores. That was the commencement of the war. On the morning of the 19th, this intelligence had been communicated to a considerable distance by the use of torches, tar barrels, and other signals, and before noon of the 19th April, Isaac Davis, an interesting young man, of between eighteen and nineteen years of age, the husband of the applicant, who was then the captain of a militia company, was on his way to protect the colonial stores. Before the British troops could arrive at Concord, they sent forward a party to take possession of two bridges on the Concord River, which were situated three or four miles apart; and, at an early hour, this intention was known for many miles round, and Isaac Davis, with his company, were soon under arms and on their march. They arrived at Concord by a road that led to the lower of these bridges, and there on the

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right and on the left, were seen other collections of the militia of Massachusetts; but there was no organization amongst them. Davis, with his company, however, kept on his course, according to his own sense of propriety; before he reached the bridge, admonitory shouts were given to the militia not to approach, and as the admonition was disregarded, the British fired, and several men fell. Davis then pressed forward, and as he approached the bridge the British again fired, and he fell; but in the contest that ensued the British were driven back to Boston. His widow, after his death, was married to another person, and acquired the name of Leighton. She was now ninety years of age, was poor and penniless.

Mr. W. said there could not be precisely such another case; and yet, as the Senator from New Hampshire (Mr. PIERCE) had said, they had acknowledged the claim of the widows of men who had served but six months, and who consequently furnished a less strong case than this. He thought it a strong case; there was no case like it. He had received communications from as honorable and as high-minded men as were in Massachusetts, requesting him to interest himself in the case of this poor woman; and he hoped something would now be done for her by Congress.

Mr. WRIGHT hoped he might be indulged in a few remarks on the subject then before the Senate; and he owed it to himself to say, however much less sensible he might appear to be to the sympathies of the human heart than other Senators who had preceded him, it was with great embarrassment and pain that he opposed a case of this kind; and were it not that he saw in it the introduction into their legislation of a principle of fearful extent, he should not be heard in opposition; but under that consciousness he had opposed it before, and he felt bound to do so again. But he begged permission to say a few words in explanation. He did not question at all the right of the present Committee on Pensions to introduce a new principle into the pension system; he had no doubt that this case had appealed to the strongest feelings of their hearts, and that they had been induced by their sympathies to present it to the Senate; but he desired to say that it was presented here on a principle new to him in the pension system. What had been the basis assumed as the basis of pensions hitherto? Length of service. Upon what principle was the law of 1818 based? If his memory served him right, it was service in the regular army, and for at least nine months. Upon what hypothesis were pensions based then? He could not say positively, for he was not in the Congress at that time, but he had always supposed on the hypothesis that the time of a man had been consumed in the service of his country, and that he had never been remunerated for that service, or that he had been paid in continental paper, which was worth nothing; and at that late day, that was the manner in which

it was proposed to compensate him for the early service of his life in the perils of that war. That he supposed to be the predication of the pension act of 1818. They passed on then, so far as his memory served him, without any important addition to that act, until the year 1828, and then they passed a very important law pensioning a certain class of officers of the Revolution. And on what ground? Why, they had been patriotic enough to peril their lives in the service of their country. Yes: and he (Mr. WRIGHT) was acting at the time that law was passed—it was as a commutation of a promise held out to them by the old Congress, which had either not been fulfilled or not equivalently fulfilled; on that he knew the action of Congress was based, or of the other branch of it, of which he was a member when the law of 1828 was passed. In 1832 again, a much more broad and comprehensive pension act was passed, but he (Mr. WRIGHT) was not then a member of Congress. But what was its peculiar characteristic? First, to shorten the term of service from nine to six months, and to comprehend the militia, as well as the regular army. These, according to his recollection, were the features of that law—a term of service, sacrifices, and loss of time, which had not been compensated for, was the predication of that law. Well, then, so far, pensions were confined to persons who had performed service, and they had not then departed from that principle either in favor of widows or heirs. In 1836, another pension law was passed, and a most significant and important law it was. He was a member of this body at the time, and he felt it to be a just reproach upon himself when he said, that when that law was passed, he was not fully aware of the extent of its provisions—he then was derelict of his duty; but what were the principles of that law? It retained, to his understanding, the same predication; it extended pensions to the widows of officers and soldiers of the Revolution, who were the wives of such officers and soldiers at the time when they performed service—to widows who had themselves sustained sacrifices, and injuries produced in their families, by the taking away the head of the family into the military service of the country. So far, then, though they had gone a step beyond the individuals who had performed the service, they had retained the broad basis on which the pension system was founded. It was in 1836 that that law was passed; and in 1838 they passed another most essential measure, as they had seen in its operation on the Treasury, for he thought he was not mistaken when he said it had taken four millions of dollars from the Treasury, or had added that much to the expense of the Government. These laws were passed when they had an overflowing Treasury, impelling them on to an overflowing expenditure. This, then, was a brief review of what he understood to be the general pension laws which had been passed; he knew, as the



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honorable chairman of the committee said, that particular laws had passed, but he asked if this proposed law did not contain a principle entirely new? From the fact stated by the Senator from Massachusetts, the time was nothing, at the most but twenty-four hours, but it was the service of the life of a gallant and patriotic officer. But he was not the first man that fell, for the Senator from Massachusetts told them that five or six freemen of this country fell before the weapon was aimed at the life of this officer. Could they, then, pension his widow, and not the widows of those other men? Could they make such a distinction? Yes, and the next day, and the next, the patriots of that period rushed to the battle field; and should they say that the widow of the man who fell on the first day of that contest should have a pension for her life, and that the widows of those who served in that patriotic struggle for a longer period, and then fell, should have no compensation? Could men make this distinction? Could their sympathies induce them to yield to this claim, and not yield to the others? He had spoken in admiration of the committee, and that admiration made it a most reluctant duty to oppose them; but to what extent the principle might be carried, if they opened the door, he could not say; and therefore he felt impelled to guard against unforeseen evils. Who had apprehended when the law of 1838 was passed, the millions on millions that had been taken from the Treasury in that short period? No man, he ventured to say. Who could say now, if they adopted the principle that the living widows of other gallant spirits who rushed to the battle field on the first day of the Revolution, would not claim to be pensioned for life; and not only pensioned for life, but, as in this case, for some years back.

Mr. BENTON. Nine years back.

Mr. WRIGHT continued. To what extent the principle would lead, he could not conceive. If this bill were to become a law of Congress—if this case were to prevail, who could stand up and protect his sympathies against granting similar pensions to the widows of those who fell at Lexington before the fall of this officer? It was views of this sort that impelled him a year ago, and which would impel him now, to oppose this bill, appealing as forcibly as it did, with an irresistible force, to their sympathies and their feelings of humanity.

Mr. BUCHANAN said he voted for the passage of this bill last session, and he intended to vote for it again; and while he avowed that intention, he took the opportunity to say that it was his purpose on all occasions to watch the expenditures of the Government, and to vote for no measure for which he could not vote with a strict sense of justice. It was said to be a new principle in our law to grant pensions to widows of men who had rendered service to their country; but he affirmed that it was an old national principle, and not only in our system, but in every other country, he believed: cer-

tainly in all those civilized countries with which he was acquainted. Why, if an officer of our army went to the battle fields of Florida, and served but a single day, what was the consequence? Why his widow received a pension. The death of a husband, immolated in the service of his country, had in it a sufficient justification for the grant. This was the universal rule which pervaded the civilized world; and he was not certain that in this country it ought to be confined to this single case. Right or wrong, Congress had provided that the widows of Revolutionary soldiers, who were married when their husbands were in the service of the country, should be pensioned; and with strong reason; but they had gone further, and granted a pension to every lady who had married a Revolutionary soldier up to 1794. He was pretty much of the opinion with the Senator from New York in regard to that, but as it had been made, he was not disposed to quarrel with it. But how could he justify himself, if he said that the widows of those who came forward to serve their country in the hour of its utmost need, should not be entitled by such meritorious service to a pension, when the widows of those who served but six months, and those who married prior to '94, were so provided for? Could they say that those who sacrificed their all, should not be provided for, while those who came in when the danger was nearly at an end, were now drawing pensions from the country; and who, perhaps, were reaping advantages in civil life by the glory which their military service gave them? Should, then, the women who were the partners of our soldiers at a time when they were called upon to sustain privation and sufferings in their country's defence, be denied assistance and compensation? If so, there would be neither justice, nor equality, nor right in the denial. Now, as to the burden on the Treasury, he could not think it would be very great. The claims were back to '83: that was fifty-seven years ago; the period of marriage in this country, he believed, was about twenty, and that would make any lady now living seventy-seven years of age, and there could not be many such. He confessed, with his principles and feelings, he could not give his vote against this old lady's claim, and he did not fear that it would be setting a bad precedent; and he could not conceive how any of his married friends could refuse to provide for this poor old widow, who had peculiar claims on them for protection.

The question was then taken on ordering the bill to be engrossed, and decided in the affirmative—yeas 29, nays 18.

And then the Senate adjourned.

THURSDAY, December 24.

Tax on Bank Notes.

Mr. BENTON brought forward his promised motion for leave to bring in a bill to tax the

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Tax on Bank Notes.

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circulation of banks and bankers, and of all corporations, companies, or individuals which issued paper currency. He said nothing was more reasonable than to require the moneyed interest which was employed in banking, and especially in that branch of banking which was dedicated to the profitable business of converting lamp-black and rags into money, to contribute to the support of the Government. It was a large interest, very able, and very proper, to pay taxes, and which paid nothing. It was an interest which possessed many privileges over the rest of the community by law; which usurped many others which the laws did not grant; which, in fact, set the laws and the Government at defiance whenever it pleased; and which, in addition to all these privileges and advantages, was entirely exempt from Federal taxation. While the producing and laboring classes were all taxed; while these meritorious classes, with their small incomes, were taxed in their comforts and necessities—in their salt, iron, sugar, blankets, hats, coats, and shoes, and so many other articles—the banking interest, which dealt in hundreds of millions, which manufactured and monopolized money, which put up and put down prices, and held the whole country subject to its power, and tributary to its wealth, paid nothing. This was wrong in itself, and unjust to the rest of the community. It was an error or mistake in Government, which he had long intended to bring to the notice of the Senate and the country; and he judged the present conjuncture to be a proper time for doing it. Revenue was wanted. A general revision of the tariff is about to take place. An adjustment of the taxes for a long period is about to be made. This is the time to bring forward the banking interest to bear their share of the public burdens, and the more so, as they are now in the fact of proving themselves to be a great burthen on the public, and the public mind is beginning to consider whether there is any way to make them amenable to law and government.

In other countries, Mr. B. said, the banking interest was subject to taxation. He knew of no country in which banking was tolerated, except our own, in which it was not taxed. In Great Britain—that country from which we borrow the banking system—the banking interest pays its fair and full proportion of the public taxes: it pays at present near four millions of dollars. It paid in 1836 the sum of \$3,725,400; in 1837 it paid \$3,594,300. These were the last years for which he had seen the details of the British taxation, and the amounts he had stated comprehended the bank tax upon the whole United Kingdom: upon Scotland and Ireland, as well as upon England and Wales. It was a handsome item in the budget of British taxation, and was levied on two branches of the banking business: on the circulation, and on bills of exchange. In the bill which he intended to bring forward, the circulation alone was proposed to be taxed;

and, in that respect, the paper system would still remain more favored here than it was in Great Britain.

In our own country, Mr. B. said, the banking interest had formerly been taxed, and that in all its branches: in its circulation, its discounts, and its bills of exchange. This was during the late war with Great Britain; and though the banking business was then small compared to what it is now, yet the product of the tax was considerable, and well worth the gathering: it was about \$500,000 per annum. At the end of the war, this tax was abolished; while most of the war taxes, laid at the same time, for the same purpose, and for the same period, were continued in force: among them the tax on salt, and other necessities of life. By a perversion of every principle of righteous taxation, the tax on banks was abolished, and that on salt was continued.

This has remained the case for twenty-five years, and it is time to reverse the proceeding. It is time to make the banks pay, and to let salt go free.

Mr. B. next stated the manner of levying the bank tax at present in Great Britain, which he said was done with great facility and simplicity. It was a levy of a fixed sum on the average circulation of the year, which the bank was required to give in for taxation like any other property, and the amount collected by a distress warrant if not paid. This simple and obvious method of making the levy, had been adopted in 1815, and had been followed ever since. Before that time it was effected through the instrumentality of a stamp duty; a stamp being required for each note, but with the privilege of compounding for a gross sum. In 1815 the option of compounding was dropped: a gross amount was fixed by law as the tax upon every million of the circulation; and this change in the mode of collection has operated so beneficially that, though temporary at first, it has been made permanent. The amount fixed was at the rate of £3,500 for every million. This was for the circulation only: a separate, and much heavier tax, was laid upon bills of exchange, to be collected by a stamp-duty without the privilege of composition.

Mr. B. here read, from a recent history of the Bank of England, a brief account of the taxation of the circulation of that institution for the last fifty years—from 1790 to the present time. It was at that time, that her circulation began to be taxed, because at that time only did she begin to have a circulation which displaced the specie of the country. She then began to issue notes under ten pounds, having been first chartered with the privilege of issuing none less than one hundred pounds. It was a century—from 1694 to 1790—before she got down to £5 and afterwards to £2, and to £1, and from that time the specie basis was displaced, the currency convulsed, and the banks suspending and breaking. The Government indemnified itself, in a small degree, for the

mischiefs of the pestiferous currency which it had authorized; and the extract which he was about to read was the history of the taxation on the Bank of England notes which, commencing at the small composition of £12,000 per annum, now amounts to a large proportion of the near four millions of dollars which the paper system pays annually to the British Treasury. He read:

"The Bank, till lately, has always been particularly favored in the composition which they paid for stamp duties. In 1791, they paid a composition of £12,000 per annum, in lieu of all stamps, either on bills or notes. In 1799, on an increase of the stamp duty, their composition was advanced to £20,000, and an addition of £4,000 for notes issued under £5, raised the whole to £24,000. In 1804, an addition of not less than 50 per cent. was made to the stamp duty; but, although the Bank circulation of notes under £5 had increased from one and a half to four and a half millions, the whole composition was only raised from £24,000 to £32,000. In 1808, there was a further increase of 33 per cent. to the stamp duty, at which time the composition was raised from £32,000 to £42,000.

"In both these instances, the increase was not in proportion even to the increase of duty; and no allowance whatever was made for the increase in the amount of the Bank circulation.

"It was not till the session of 1815, on a further increase of the stamp duty, that the new principle was established, and the Bank compelled to pay a composition in some proportion to the amount of their circulation. The composition is now fixed as follows: Upon the average circulation of the preceding year, the Bank is to pay at the rate of £3,500 per million, on their aggregate circulation, without reference to the different classes and value of their notes. The establishment of this principle, it is calculated, caused a saving to the public, in the years 1815 and 1816, of £70,000. By the neglect of this principle, which ought to have been adopted in 1799, Mr. Ricardo estimated the public to have been *losers*, and the Bank consequently *gainers*, of no less a sum than *half a million*."

Mr. B. remarked briefly upon the equity of this tax, the simplicity of its levy since 1815, and its large product. He deemed it the proper model to be followed in the United States, unless we should go on the principle of copying all that was evil, and rejecting all that was good in the British paper system. We borrowed the banking system from the English, with all its foreign vices, and then added others of our own to it. England has suppressed the pestilence of notes under £5 (near \$25;) we retain small notes down to a dollar, and thence to the fractional parts of a dollar. She has taxed all notes; and those under £5 she taxed highest while she had them; we, on the contrary, tax none. The additional tax of £4,000 on the notes under £5 rested on the fair principle of taxing highest that which was most profitable to the owner, and most injurious to the country. The small notes fell within that category, and therefore paid highest.

Having thus shown that bank circulation was

now taxed in Great Britain, and had been for fifty years, he proceeded to show that it had also been taxed in the United States. This was in the year 1818. In the month of August of that year, a stamp-act was passed, applicable to banks and to bankers, and taxing them in the three great branches of their business, to wit: the circulation, the discounts, and the bills of exchange. On the circulation, the tax commenced at one cent on a one dollar note, and rose gradually to fifty dollars on notes exceeding one thousand dollars, with the privilege of compounding for a gross sum in lieu of the duty. On the discounts, the tax began at five cents on notes discounted for one hundred dollars, and rose gradually to five dollars on notes of eight thousand dollars and upwards. On bills of exchange, it began at five cents on bills of fifty dollars, and rose to five dollars on those of eight thousand dollars and upwards.

Such was the tax, continued Mr. B., which the moneyed interest, employed in banking, was required to pay in 1818, and which it continued to pay until 1817. In that year the banks were released from taxation, while taxes were continued upon all the comforts and necessities of life. Taxes are now continued upon articles of prime necessity—upon salt even—and the question will now go before the Senate and country, whether the banking interest, which has now grown so rich and powerful—which monopolizes the money of the country—beards the Government—makes distress or prosperity when it pleases—the question is now come whether this interest shall continue to be exempt from tax, while every thing else has to pay.

Mr. B. said he did not know how the banking interest of the present day would relish a proposition to make them contribute to the support of the Government. He did not know how they would take it; but he did know how a banker of the old school—one who paid on sight, according to his promise, and never broke a promise to the holder of his notes—he did know how *such* a banker viewed the act of 1818; and he would exhibit his behavior to the Senate; he spoke of the late STEPHEN GERRARD of Philadelphia; and he would let him speak for himself, by reading some passages from a petition which he presented to Congress the year after the tax on bank notes was laid.

Mr. B. read:

"That your memorialist has established a bank in the city of Philadelphia, upon the foundation of his own individual fortune and credit, and for his own exclusive emolument, and that he is willing most cheerfully to contribute, in common with his fellow-citizens throughout the United States, a full proportion of the taxes which have been imposed for the support of the National Government, according to the profits of his occupation and the value of his estate; but a construction has been given to the acts of Congress, laying duties on notes of banks, &c., from which great difficulties have occurred, and great inequalities daily produced to the disadvantage of his

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bank, that were not, it is confidently believed, within the contemplation of the Legislature."

"That it has been officially declared, however, that the second section of the act of Congress does not authorize a composition with an individual banker, because it speaks only of *banks* and *companies*, (not of banker and bankers,) and because it speaks only of dividends (not of profits) made to the stockholders, and that hence an individual banker, acting upon a capital of one million of dollars, and issuing bank notes to the amount of one million of dollars, is subjected to the prompt payment of a duty amounting to ten thousand dollars, while an incorporated bank, or even a company of two or three bankers, acting upon the same amount of capital, and issuing the same amount of bank notes, will only be liable, periodically, to the payment of a duty amounting to one thousand five hundred dollars, upon the customary annual dividend of ten per cent."

"And your memorialist having submitted these considerations to the wisdom of Congress, respectfully prays, that the act of Congress may be so amended as to permit the Secretary of the Treasury to enter into a composition for the stamp duty, in the case of private bankers, as well as in the case of corporations and companies, or so as to render the duty equal in its operations upon every denomination of bankers."

Mr. B. had read these passages from Mr. Girard's petition to Congress in 1814, *first*, for the purpose of showing the readiness with which a banker of the old school paid the taxes which the Government imposed upon his business; and, *next*, to show the very considerable amount of that tax, which on the circulation alone amounted to ten thousand dollars on the million. All this, with the additional tax on the discounts, and on the bills of exchange, Mr. Girard was entirely willing to pay, provided all paid alike. All he asked was equality of taxation, and that he might have the benefit of the same composition which was allowed to incorporated banks. This was a reasonable request, and was immediately granted by Congress.

Mr. B. having vindicated his bill on British and American precedent, as well on reason as principle, went on to state its details, and to show the probable amount of the tax it would produce. He stated that he proposed a tax of one per centum per annum on the notes of twenty dollars and upwards; of two per cent. on the notes of five dollars, and under twenty; and four per cent. on the notes under five dollars. This he held to be a more moderate tax than that imposed upon the banking interest by the act of 1818, for while it taxed the circulation a little higher than was done by that act, yet it taxed nothing but the circulation. The discounts and the bills of exchange were not included. He justified the higher tax placed on the small bills, for the same reason which occasioned them to be more highly taxed in Great Britain when notes under £5 were tolerated there, to wit: because those

small notes were more profitable to the makers than the large ones, and therefore could afford to pay higher, and were more injurious to the country, and therefore ought to pay higher.

To collect this tax, Mr. B. said that his bill followed the plan that had prevailed in England since the year 1818, that is, to require the banks, and other corporations, and the individuals and companies which issued paper money, to give in to the clerk of the United States district court the average of the circulation for the first three quarters of the year, and an estimate of the fourth quarter; upon which the marshal of the district should make the collection, under the instructions of the Secretary of the Treasury. He held this to be a cheap, efficient, and simple method of collecting the tax. It avoided all the objections which applied to a stamp duty; objections so great that, both in England and America, whilst the stamp duty was nominally imposed, a composition so moderate was permitted that the duty was always compounded for a gross sum.

The product of the tax was the point to which Mr. B. next adverted. He said the product would be considerable, and well worth the collection. On the present circulation of about one hundred millions, of which more than half might be assumed to be under twenty dollars, and therefore paying the higher tax, the product would not be less than a million and a half of dollars. But the paper system is now in a state of depression: it has been vastly contracted within a year past to make "*distress*" for the election of 1840, and will soon swell out again to make plunder for speculators. In 1837, the circulation was one hundred and forty millions; it will doubtless expand to that amount again in the course of the year; it is time for the new expansion to begin; and when the Constitutional Treasury is abolished, and all check over the issue of bank paper removed, the circulation will probably amount to two hundred millions of dollars. The product of the bank tax would then be about three millions of dollars; a respectable sum in itself, very nearly equal to the sales of the public lands, and sufficient to admit the suppression of taxes on many articles of comfort and necessity.

Having made this exposition of his bill as a revenue measure—as a measure purely and simply intended to raise revenue from the moneyed interest employed in banking, Mr. B. said there was an additional feature in the bill which he had not yet mentioned, and which he should now proceed to develop. It was in an annual progressive increase of the tax on small notes—those under the size of twenty dollars—which he had inserted in the bill; and the motive for which increase he would now state. The bill, as already explained to the Senate, proposes a higher tax on the small notes than on the large ones. This was done on the fair revenue principle before stated, and which was acted upon in England when the circulation of

small notes was admitted there. But in addition to this higher tax on such notes, an annual increase is proposed to be added to it until the whole tax amounts to twelve per cent. per annum. This increase was not intended solely for revenue, but partly to effect the gradual suppression of these notes. This was the motive for the increase; and the bill was so drawn as to present this additional tax as a separate clause, and as claiming from the Senate a distinct and separate consideration. The provision was, that notes of five dollars and under twenty, should pay one per centum per annum additional tax, and those under five dollars should pay two per centum per annum additional, until the tax on each amounted to twelve per cent. This additional tax, annually increasing, would gradually bear down these notes, and put an end to their circulation at the end of some years, in the mean time supplying revenue. This was the character and object of the second part of the bill; and as it was the first time that a measure of this kind had been brought before the Senate, he felt it to be incumbent upon him to vindicate his proposition, and to anticipate and obviate some of the objections which might be made to it. At the head of these objections stood the question of constitutionality—a question which should be well considered at the proposal of every new measure. It might be objected that the taxing power could not be used for an incidental purpose; that it must be confined to its direct object. Before answering this objection, Mr. B. would say that there were five classes of politicians in the United States, and very numerous classes too, who could not use it—who were precluded by their principles from using it. These were, *first*, all those who admitted the right of Congress to regulate the currency generally; for as there was no specified mode of regulating it, it resulted, of course, that Congress should use any one of its actual powers for that purpose which would accomplish the object. *Secondly*, all those who held it constitutional to charter a National Bank to regulate the currency; for it was clear that if Congress, in the exercise of an implied power, could invest a company of individuals with the power of regulating the currency, it might regulate the same currency itself by the exercise of an express power. *Thirdly*, all those who deemed it constitutional to lay duties for the direct purpose of protection; for if it was constitutional to banish foreign products in that way, it was still more clearly so to use the same power for the suppression of a domestic nuisance. *Fourthly*, all those who held it constitutional to lay duties with a view to incidental protection; for if an incidental object can be allowed in one case, it may in another. *Fifthly*, all those who held it constitutional to lay prohibitory duties; for prohibition was the same, whether it applied to one object, or another. Mr. B. said, these five classes of politicians were precluded from making the question

of constitutionality to the second part of his bill; and he believed these five classes would comprehend nearly the whole of the politicians in the Union; he believed that almost every politician would fall into one or the other of these classes, and not a few would fall into the whole of them; all such he held to be estopped by their principles from objecting to his proposed measure. But there may be others, he said, not included in these classes, and therefore not estopped by their established principles; and to whom a reply upon the merits is due. That reply is as brief as it is obvious, namely, that where the constitution requires a thing to be done, and has not specified the mode of doing it, Congress may exercise any one of its granted powers for the purpose which is adequate to the object. This is the principle, and now for its application: The constitution requires the gold and silver currency to be preserved; the small notes destroy that currency, and substitute for it a base paper money. The constitution requires gold and silver to be the only legal tender in payment of debts; the small notes destroy that tender, and make base paper a forced tender in payment of every debt. Here, then, are two infractions of the constitution operated by those small notes; here are two constitutional requisitions defeated by these small notes; here is a twofold duty devolved upon the Congress—first, to prevent these infractions, and second, to comply with these requisitions; and no way is pointed out for doing it. The obvious course then is, to use any remedy that a granted power will afford for the purpose. The taxing power will do this. It will kill the small notes, which are killing the constitution; and it is absurd to think of waiting for an express power to put down these destroyers of the constitution; for the framers of that instrument never foresaw the evil; they never foresaw the existence of a thousand banks, and ten thousand individuals, all issuing small paper money, and refusing to pay it when they pleased; and a great political party sustaining them in their conduct. These are things not foreseen by the framers of the constitution; they are evils against which specific remedies cannot be directed; they are evils which must continue unless a remedy can be found in the incidental exercise of a granted power; and to deny this, is to say that the constitution cannot be used to save itself.

Mr. B. said that neither the idea of his bill, nor the argument in favor of it, was original with him. They had both been used by others long since, and especially by Mr. Gallatin ten years ago. Mr. Gallatin, in his essay on currency, in the year 1830, had proposed this method of putting down small notes; and in an elaborate argument, had vindicated its constitutionality, clearly showing that it avoided the Hamiltonian, and came within the Jeffersonian construction of the constitution. His argument is too extended to be quoted in full here; but some passages from it will show his opin-

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ion, and exhibit a part of his reasoning. He says:

"We have already adverted to the provisions of the constitution, which declare that no State shall either coin money, emit bills of credit, make any thing but gold and silver coin a tender in payment of debts, or pass any law impairing the obligation of contracts, and which vest in Congress the exclusive power to coin money, and to regulate the value thereof, and of foreign coin. It was obviously the object of the Union to consolidate the United States into one nation, so far as regarded all their relations with foreign countries, and that the internal powers of the General Government should be applied only to objects necessary for that purpose, or to those few which were deemed essential to the prosperity of the country, and to the general convenience of the people of the several States. Amongst the objects thus selected, were the power to regulate commerce among the several States, and the control over the monetary system of the country."

"Congress has power to lay stamp duties on notes, on bank notes, and on any description of bank notes. That power has already been exercised; and the duties may be laid to such an amount, and in such a manner, as may be necessary to effect the object intended. This object is not merely to provide generally for the general welfare, but to carry into effect, in conformity with the last paragraph of the eighth section of the first article, those several and express provisions of the constitution which vest in Congress exclusively the control over the monetary system of the United States, and more particularly those which imply the necessity of a uniform currency. The exercise of the power for that object is free of any constitutional objection, provided the duties thus laid shall be uniform, and applied to the Bank of the United States, as well as to the State banks. The act of laying and collecting the duties, which is expressly granted, is alone sufficient, to effect the object. As no appropriation of money is wanted for that purpose, the exercise of power which is required, is purely that of laying duties; and it is not liable to the objection, that to assert that the authority to lay taxes implies that of appropriating the proceeds is a forced construction. It is equally free of any objection derived from any presumed meaning of the words "general welfare," since the power to lay duties will, in this instance, be exercised, in order to carry into effect several express provisions of the constitution, having the same object in view. Congress may, if it deems proper, lay a stamp duty on small notes, which will put an end to their circulation. It may lay such a duty on all bank notes, as would convert all the banks into banks of discount and deposit only, annihilate the paper currency, and render a Bank of the United States unnecessary in reference to that object. But if this last measure should be deemed pernicious, or prove impracticable, Congress must resort to other and milder means of regulating the currency of the country. The Bank of the United States, as has already been shown, was established for that express purpose."

Mr. B. would not go further into the constitutional question, as it concerned the second part of his bill, at present. He held what had been said by himself, and quoted from Mr.

Gallatin, to be sufficient on that head; sufficient, at all events, to warrant the introduction of this bill. The other part of it—that which related to revenue—was free from all constitutional question, and presented nothing but a question of expediency. It presented the simple question, whether the moneyed interest employed in banking ought to be made to contribute to the support of the Government; and to that question he expected a general answer in the affirmative. To the expediency of suppressing the small notes under twenty dollars, he should also expect an affirmative answer from the majority of the Senate and the people. He himself should be for suppressing all under one hundred dollars; but the public mind was not yet ripe for so strong a measure. The small notes under twenty dollars were the great evil at present. They were a pestilence, a nuisance, and a curse to the country. They drove specie out of the country, and made safe banking impossible. They threw the losses, when banks stopped payment, upon those who had no benefit from banks when they were going on: they threw all the losses upon the laboring and small dealing part of the community. They promoted crime and immorality; for the counterfeiting and passing counterfeit paper, fell almost entirely upon the small notes. They banished silver; for how could a silver dollar circulate against a one dollar note? They banished gold; for how could an eagle circulate against a ten dollar, or a half eagle against a five dollar bill? They were injurious to every interest, except the banking interest, and to them they were the source of enormous, but most undue profit?

Mr. B. submitted his bill, with the declaration that it was one of the measures for the protection of the constitutional currency, and the restriction of the paper system, which went to the foundation of parties; that it concerned the great question of the age—that of the currency—on which Jefferson and Hamilton divided fifty years ago, and on which Democracy and Federalism must continue to divide until the question of mastery and permanent supremacy was decided between the banks and the people.

At the request of Mr. PRESTON, the bill was then read.

Mr. HUNTINGTON said it was not usual, nor in accordance with the courtesy generally extended to Senators, on asking leave to introduce a bill, to make objections; but this bill was of such a character, that, with the views he entertained, it seemed to him it was not properly admissible. There was a provision in the constitution which provided that all bills for the raising of revenue should originate in the House of Representatives, though the Senate might make amendments thereto. Now what was this bill? It was a bill by which it was intended to lay a tax upon all bank notes issued by any banking incorporation in this country. It was not confined to any district or territory, but it was a bill to lay a tax, in the form of a

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duty, to be assessed and paid into the Treasury of the United States, and thus forming a part of the receipts and the money of the Government, and to be expended as such. Now if he understood the Senator from Missouri (Mr. BENTON) aright, that Senator considered it a part of their obligations to compel these corporations to pay a portion of that which justly goes into the Treasury in the shape of revenue; and if so, it was not within the powers conferred upon them by the constitution; and could they, then, permit the introduction of a bill containing such a provision? He had no intention to reply to the remarks of the Senator from Missouri on the merits of the bill; with the views he entertained he did not consider the Senate could constitutionally receive the bill, and therefore he should attempt no reply. Some years ago it was a question there whether, indeed, the Senate could reduce a rate of duty proposed to be imposed by a bill which had come up from the other House; but on that subject he had now nothing to say, nor should he say a word on the merits of this bill; he merely felt it to be his duty to state the views he had on the question of its reception, and therefore, on the question of granting leave, he called for the ayes and noes.

Mr. BENTON said the objection of the Senator from Connecticut (Mr. HUNTINGTON) was a very fair one; it was one which he had anticipated, for he should have sat there for twenty years to very little purpose, if he had not foreseen it. He repeated, it was a fair objection, and it was entitled to the grave consideration of the Senate. But in the twenty years that he had sat there, he had seen the thing done, and that in a piece of legislation which they deemed the most sacred of all the legislation they had ever done; he alluded to the compromise act of 1833, which originated in the Senate, and to that part in which they raised the duty on coarse woollens from five to fifty per cent. That bill was entertained by this body, it was carried through this body, and was perfected by this body.

Mr. WEBSTER. No, no, no; not perfected.

Mr. BENTON repeated that it was perfected by this body. He knew well what he said. It was perfected by this body; it was discussed and amended in this body; afterward adopted as an amendment in the House of Representatives, and then was sent up again to this House, and passed as a House bill. That bill, after being entertained by this body, and perfected by this body, or discussed until they were satisfied with it, was taken as an amendment by the other House, passed there, and sent here, and then passed here. Thus it began here—was discussed here—amended here—perfected here—but not passed till adopted and sent up by the House.

Mr. WEBSTER asked what could be a clearer case than this? The very head and title of the bill showed that it was intended thereby to lay

a tax, and the constitution said that all such bills should originate in the House of Representatives. The case of the compromise act was different; the general scope of that act was not to raise, but to reduce taxes; but even then it was thought that it had a very doubtful right there. But he was surprised to hear any gentleman asking leave to introduce such a bill as this.

Mr. HUBBARD moved to lay the question of reception on the table, and that the bill be printed. He hoped no question would be taken on the bill until they had had an opportunity to read it.

Mr. CALHOUN said it was undoubtedly true the Senate could not originate a bill to raise a revenue by taxation; and at another period, on another measure, when he presided over the Senate, the question was raised, whether, as they had not the power to originate bills to raise revenue, they could reduce taxation; he overruled the objection, and the Senate confirmed his decision, and the compromise bill was passed under that decision. But in its progress, as an amendment was made in favor of coarse woollens, and as the question had arisen as to the right of the Senate, the other House adopted the amendment as its own, to obviate any informality. He argued that the question should be decided by the Chair, whether this bill was admissible.

Mr. WEBSTER hoped the yeas and nays would be taken thereon.

Mr. CLAY, of Alabama, said no principle whatever was involved in the motion of his friend from New Hampshire—they neither voted on the adoption nor the rejection of the bill. He hoped the Senate would adopt the motion, allow the bill to be printed, and that they would have another opportunity to vote on its merits. Not doubting that the Senate would give them that opportunity, he would now renew his own motion to lay the motion of the Senator from Missouri on the table, and that the bill be printed.

Mr. WEBSTER hoped the question would be determined by the ayes and noes, which were ordered.

After a few words from Mr. CALHOUN, Mr. CLAY of Alabama, and Mr. WEBSTER, the vote was taken on the motion to lay it on the table, and it was determined in the negative—ayes 18, noes 22.

Mr. BENTON then said he had accomplished the main, though not the whole of his objects in introducing the bill. One object was to bring the question before the country—that he had accomplished, and therefore he would now withdraw his motion for leave to introduce the bill.

Mr. WEBSTER said the Senator could not withdraw it without the consent of the Senate.

On this question a point of order arose, which led to an animated debate, in which Messrs. WEBSTER, TAPPAN, CLAY of Alabama, PIERCE,

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CALHOUN, KING, CRITTENDEN, HUNTINGTON, PRESTON, SEVIER, MERRICK, PHELPS, and others took part.

It was then resolved, on the motion of Mr. PRESTON, that when the Senate adjourn, it do adjourn to meet again on Monday next.

The Senate then adjourned.

MONDAY, December 28.

*Taxing Bank Notes.*

Mr. BENTON said when the Senate was last in session, he asked leave to introduce a bill to tax paper issues, to which it was objected that it was not constitutional to introduce such a bill in this body, and he had therefore asked and obtained leave to withdraw it. But he now wished to give notice to the Senate, and to the country, that he should offer that bill in the form of an amendment to the first revenue bill to which it was applicable; and in the mean time he would ask leave to have the bill printed as an amendment. He had struck out the title of the bill, and simply wished that it might be printed and laid on the table, that any gentleman who desired to turn his attention to the subject, might have the opportunity to do so, and that gentlemen might not be taken by surprise.

The PRESIDENT having stated the question to the Senate,

Mr. KING said he presumed it was not necessary to state to the CHAIR that the subject-matter to which it was intended to offer this bill as an amendment, was not yet before the Senate, and therefore it could not be received in that form. It had been usual to receive and print amendments as a courtesy to Senators, but never before the proposition to which the amendment was desired to be made had been introduced. He thought the Senator from Missouri was not now in order, but that he would have to wait until the revenue bill to which it would have to be attached, came up. He (Mr. KING) had no wish to prevent the bill going before the country, but he desired that they should adhere to what was regular and proper in their forms of proceeding.

The PRESIDENT remarked that the subject was with the Senate for decision.

Mr. BENTON said perhaps he could relieve the Senate. His object was to give notice to the Senate and to the country that he should pursue this subject, and at his earliest convenience; that being done, if gentlemen would look at the subject, he had no desire to have the amendment printed, though he had been anxious to avoid taking them by surprise. However, he would not now press his motion.

HOUSE OF REPRESENTATIVES.

MONDAY, December 28.

*Navy Pensions.*

Mr. FRANCIS THOMAS asked the House to go into Committee of the Whole on the bill re-

ported by him from the Committee on Naval Affairs last week, making appropriation for the payment of navy pensions. He reminded the House that the money would become due on the first of January, so that prompt action on the bill was absolutely necessary.

Mr. T. then moved that the House go into Committee of the Whole, for the purpose of taking up the bill.

The House then resolved itself into a Committee of the Whole on the state of the Union, (Mr. McKAY in the chair,) and took up the above bill, which was read by the Clerk as follows:

A BILL concerning navy pensions and half-pay.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the sum of one hundred and fifty-one thousand three hundred and fifty-two dollars and thirty-nine cents, be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the payment of pensions and half-pay chargeable on the navy pension fund.

At the request of Mr. THOMAS, the Clerk then read the following document from the Secretary of the Navy, which had been forwarded by the President, in compliance with a resolution of the House:

WASHINGTON, December 7, 1840.

SIR: I herewith transmit a letter from the Secretary of the Navy, in relation to the navy pension fund, to which the attention of Congress is invited, and recommend an immediate appropriation of \$151,352 39, to meet the payment of pensions becoming due on and after the 1st of January, 1841.

M. VAN BUREN.

HON. R. M. T. HUNTER,

*Speaker of the House of Representatives.*

NAVY DEPARTMENT, December 1, 1840.

SIR: I have the honor to state that the whole amount of money now on hand to pay navy pensioners, is \$18,647 61; and that there will be required in addition thereto, for that purpose, for the ensuing year—1841—the sum of \$151,352 39; of which the sum of \$51,476 73 will be wanted to meet claims for pensions becoming due on the 1st day of January next.

The stocks at present owned by the navy pension fund are:

City of Cincinnati five per cent.	- -	\$100,000
City of Washington five per cent.	- -	33,339
Bank of Washington	- -	14,000
Union Bank of Georgetown	- -	11,400

Nominal value - - - - \$158,739

All these stocks have greatly depreciated in value, and some of them are now altogether unsalable. The stock of the city of Cincinnati, standing highest, has been advertised to be sold at auction on the 15th of this month, (December,) for the purpose, in the first place, of reimbursing the Bank of America the sum of fifty thousand dollars advanced to the fund on a deposit of the said stock, to meet the payment of pensions which became due on the 1st of July last, and afterwards to meet, as far as it may suffice,



the payments falling due on the 1st of January next.

To liquidate these and other claims becoming due in the year 1841, and at the same time to prevent the great sacrifice which must ensue if the stocks belonging to the fund be sold at this time, I have the honor to request that you will be pleased to call the attention of Congress to the subject at the commencement of its approaching session, and to recommend an immediate appropriation of the above-named sum of \$151,352 89 in aid of the fund; the deficiency in its means of satisfying the just claims of pensioners, which by the act of Congress of 28d April, 1800, the public faith was pledged to supply, having occurred.

I have the honor to be, very respectfully,

Your obedient servant,

J. K. PAULDING.

To the PRESIDENT of the United States.

Mr. F. THOMAS then made a brief explanation of the acts relating to the bill. He explained that, by the act of 1800, pensions were granted to seamen, officers, and marines in the naval service who had been disabled; and that, by the 9th section, a peculiar mode of paying these pensions was provided; the fund was to be derived not from the general revenue of the Government, but from the sales of that portion of the prizes to which the United States might become entitled. He explained also that by the 9th section, the faith of the United States was pledged, in the event of the exhaustion of the fund, to make good the deficit.

The Secretary of the Navy stated that this specific fund had been so far exhausted as to be reduced to a very small amount in stocks, most of which were now unsalable, and he applied to Congress to make this appropriation for the purpose of saving those stocks from sacrifice.

Mr. T. then proceeded to reply to an objection which, he said, he anticipated would be made by the gentleman from Massachusetts, (Mr. ADAMS.) There was a contrariety of opinion in the Committee on Naval Affairs, and might be, Mr. T. supposed, in this House, as to the construction of the law of 8d March, 1837, under which this pension fund of 1800 had been exhausted. It would be seen that Congress, by the act of 1800, had given pensions to officers, seamen, and marines disabled; and, as he said, by the ninth section, the faith of the Government was pledged to make good any deficiency in the fund if it should become exhausted. By the law of 1837, and by other laws which it was not necessary for him to refer to, another class of persons had been authorized to apply for these pensions other than those contemplated by the original act; and their pensions were to commence from the time when the incident occurred which gave origin to the pensions. Under this act, Mr. T. explained that arrearages had been allowed of twenty or thirty years. He anticipated that the gentleman from Massachusetts (Mr. ADAMS) would assume the ground that the Secretary had erred in giving that construction to the

law of 1837. He anticipated the gentleman would say that Congress gave a pledge to make good any deficiency in the fund, in the event of that fund being applied solely to pensioners contemplated under the law of 1800, to wit, to officers, seamen, and marines, actually disabled in the public service. Now, it seemed to him, (Mr. T.,) that whatever might be the construction given to the act, the bill before the committee ought to become a law, even if the Secretary of the Navy had committed an error. If the fund was exhausted, the Government stood bound to reimburse it. The Committee on Naval Affairs intended, before the close of the session, to bring in a bill to repeal the act of 1837, and intended to incorporate in it certain provisions diminishing the number of persons entitled to make these claims upon the Government. The simple question now was, whether the Government, in virtue of its plighted faith, would now make good a deficiency in the pension fund of 1800; that fund having been exhausted under what some gentlemen might suppose to be a misconstruction of the act of 1837.

Mr. ADAMS desired to know if the sum embraced in the present bill was included in the estimates for the year.

Mr. THOMAS said, that so far as he was informed, he believed not.

Mr. ADAMS then complained that the recommendation from the President was, that Congress should not exceed the estimates, and yet one week afterwards the House was urged to make an appropriation not included in the estimates. Mr. A. then went on to contend that the Secretary of the Navy, under the act of 1837, had no authority to make use of the specific fund set apart for the payment of pensioners under the act of 1800. Also, that by this act the Treasury of the United States had been saddled with a national debt, and for the payment of which they were called upon to make an appropriation not in the estimates. Mr. A. then proceeded to show that in 1837 the amount of the specific fund was \$1,200,000, the interest from which, he contended, was sufficient to meet the demands upon it. He wished to know what had become of this money. Why, it appeared from the letter of the Secretary that it had been exhausted, not for the payment of the pensioners, for whom it had been set apart, but for the widows, orphans, and perhaps the aunts of persons who might have been in the service. After some further remarks, Mr. A. went on to charge the Administration with a want of economy in thus "wasting" so much money, sacredly set apart, as he contended, for another specific purpose. He wished to know how the act of 1837 originated, and by whom it was passed through the House. He desired to examine who had introduced the measure, and to see whether it was a Whig or an Administration "economist."

Mr. A. then, at much length, gave his views in relation to the investment of Government

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*Death of Hon. Felix Grundy.*

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money in State stocks and bonds, and contended that the Secretary of the Navy had no authority for making such investments. He contended that the investment of money in State stocks by the Government, was in fact assuming the State debts.

Mr. F. THOMAS declining to reply, owing to this necessity of a speedy passage of the bill,

The committee then rose and reported the bill to the House, without amendment.

Mr. MONROE said the Congress of 1837 had disposed of a fund over which they had no control; and it was the duty of the representatives to replace the fund, repeal the act of 1837, acknowledge the debt, and pay the interest; and that interest would pay the pensioners annually.

Mr. SHEPARD moved to amend the bill, by adding the following, to come in as an additional section:

SEC. 2. *And be it further enacted*, That the act of March 3, 1837, entitled, "An act for the more equitable administration of the navy pension fund," be repealed.

Mr. PECK demanded the previous question, which was seconded by the House.

The main question was then ordered, and, being put, first on the amendment, resulted as follows—yeas 81, nays 70.

So the amendment was agreed to.

The question then recurring on ordering the bill, as amended, to be engrossed for a third reading, was put, and decided in the affirmative.

The bill was then read a third time, and passed.

#### IN SENATE.

TUESDAY, December 29.

#### *Death of Hon. Felix Grundy.*

Immediately after the reading of the journal, Mr. ANDERSON rose and addressed the Senate as follows:

MR. PRESIDENT: By the last mail, I received from Nashville the sad intelligence of the death of my esteemed friend and distinguished colleague, and I rise to announce the event to the Senate. He died at Nashville, on the 19th instant. I have no words adequate to express my deep regret for this great public loss. I will not indulge, upon this occasion, in mere expressions of private grief, though I might find pardon and sympathy in the bosoms of many of his personal and endeared friends who surround me. They will feel with me that they have lost a friend who merited their esteem, and in those whose social qualities the kindness of the heart was ever conspicuous, and never, for a moment, extinguished by party contests. But, sir, in bringing this melancholy event to the notice of the Senate I am reminded not only of the claims of private friendship—of the loss which I feel that I have suffered in his death—but that I am about to ask the action

of this body in reference to a man who was one of the Patriots and Statesmen of this land—a man of whom it may be said, truly, that he was the artificer of his own fortunes, and wore those honors meekly, which his fidelity and talents had won in many a well-contested field of mental action. His loss is a public misfortune; and it will sink deep and lastingly into the bosoms of his countrymen.

He was born in 1777, in the county of Berkeley, in the Old Dominion, that mother of patriots and great statesmen. His father emigrated in 1780 to Kentucky. At an early period he was left an orphan, guided and cherished by a mother on whom misfortune had cast its deepest shadows. He was liberally educated at the Academy of Bardstown, Kentucky, then under the superintendence of Dr. PRIESTLY, and passed his scholastic days in honorable rivalry with such men as ROWAN, POPE, and DAVIS.

He studied law with that eminent civilian and ardent patriot, GEORGE NICHOLAS. In selecting the legal profession, he consulted his natural taste and cast of mind; and when he came to the bar, he soon acquired the confidence and patronage of the public. In 1799, when a convention was called in Kentucky to revise the constitution, he was chosen as a member of that body from the county of Washington; and was afterwards elected to the Legislature of that State, and was the author of what is denominated the circuit court system, by which justice was brought near to the hands and the doors of the people.

He was subsequently elected to the Legislature of Kentucky. He continued in that station from 1802 until 1806, when he was made one of the Supreme Judges of the State, and, at the transfer of Judge TODD to the Supreme Court of the United States, he was made Chief Justice. In 1808 he resigned that office, emigrated to Tennessee, and engaged in the practice of the law. The same success followed his efforts there. The popular confidence was early bestowed upon him, and when our difficulties with Great Britain excited the apprehension that they could not be amicably adjusted, his patriotism, his zeal, his wisdom, and his talent, pointed him out as the man peculiarly qualified with whom to intrust such high interests—and I believe he was elected without opposition from the Nashville district, a member of the Congress of 1811 and 1812. He was placed during that memorable period, by the distinguished Senator from Kentucky, then Speaker of the House, upon the Committee of Foreign Relations, which was composed of some of the ablest men of the nation. It was with such men that he was rated, and it was then that he first became known to the whole country, and equally distinguished for his wisdom in council, his untiring zeal, and his powerful and inspiring eloquence. It was the meridian of his life, and the fire of his youth had not subsided; that gentler, perhaps not less lofty strain of elo-

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quence to which we have listened here in his latter days, marked then his efforts, but they had also an added strength and energy, and point, that gave to all he said the highest force.

After his retirement from his position there, he was elected to the Legislature of Tennessee, and continued to act a valuable and distinguished part in the councils of his adopted State. In 1829, he was elected a member of this body. In this station he continued until 1837, when he resigned his seat—and was afterwards called to the cabinet by the present President, and was again returned to the Senate at the commencement of this Congress.

Of his action here I need not speak. Of one thing, I think I am certain—he has left no enemy in this body, and many warm, very warm and devoted friends, who will long cherish his memory. That gentle but mighty spirit, that could move so powerfully upon others, has itself been finally acted upon by the Giver of all good; and we are permitted to cherish the belief that it now rests in the bosom of our Heavenly Father. He was aware of the immediate change that was about to translate him from time to eternity. He contemplated it with calmness and Christian resignation, in the humble hope that he would be numbered among the spirits of the redeemed made perfect. Religion had smoothed his path, and made his dying bed soft and gentle to his heart as the downy pillow.

We shall hear his voice no more, but we will cherish his memory—for his was a spirit ever kind, noble, and bland as a summer's morning. His eloquence charmed and delighted; often confounded, but never repelled the admiration of his adversary. His friends—his State—his whole country, will deplore his death as a public calamity. History will attest that his life has been closed through a long path of toil, of patriotism, of honor, and of fame.

Mr. A. then offered the following resolutions:

*Resolved*, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of the honorable FELIX GRUNDY, late a member thereof, will go into mourning, by wearing crape on the left arm for thirty days.

*Resolved*, That as an additional mark of respect for the memory of the honorable FELIX GRUNDY, the Senate do now adjourn.

Mr. BENTON rose and said, that among the number of Senators now present, to whom a long and friendly intercourse with our deceased brother Senator would give the right of seconding the motion to confer honors upon his memory, he claimed to be one, and that on account of a friendly intercourse between them long before their meeting in this chamber. Judge GRUNDY, after having attained the highest professional advancement in the State of his first adoption—after having at an early age become Chief Justice of the Supreme Court of Kentucky—after having earned the highest distinctions

of the bar and of the Legislative body, amidst the brilliant competition of genius and talent which illustrated that young State—after achieving all this, at an early age, when many are just commencing the serious business of life, he removed to the State of Tennessee, there to recommence his distinguished professional career. This was in the year 1806. My law license, said Mr. B., was just then signed. I was then a briefless young lawyer at the Nashville bar, and quickly had occasion to experience, in the conduct of the distinguished new comer, the generous and brotherly feeling which leads the elder members of the profession to lend a helping hand to the younger. To bear lightly on the errors of inexperience—to aid with advice—to extol what was praiseworthy—to encourage every honorable effort—was his conduct to me as well as to all other beginners in the arduous career of the law. Thus commenced our acquaintance, in the exercise of personal and political friendship, thirty-four years ago; and the friendly intercourse then began, has been continued upon a higher and different theatre until death has closed the door upon the progress of his meritorious and eventful life. These circumstances give me a right, among the many who are here and could so justly claim it—they give me a right to appear as the second to the motion which has just been made. The Senator from Tennessee, (Mr. ANDERSON,) the last colleague of the deceased, has well portrayed the character of Judge GRUNDY—has well presented the leading events of his distinguished life, the high order of his talents, the benevolence of his heart, and the amenity of his manners. He has sketched the outline, with a friendly and a just hand, of these events and qualities. To fill up that outline, and to give the details of that picture which he has so beautifully presented, would require a time and an opportunity which the present sudden and melancholy occasion does not present. He has done all which the occasion permits. He has presented the picture of a good man, and of a great man, rising to eminence by the exercise of virtue and talents, and dispensing private happiness in the family and social circle, while discharging the highest duties of the jurist, the statesman, and the patriot. He has done more: he has been able to present—the life of our deceased friend enabled him to present it—he has been able to crown the picture which he has drawn, with that feature without which all human character would be imperfect; he has been able to present him as a Christian. To this, said Mr. B., I can have nothing more, on this occasion, to add; and, therefore, fulfil my purpose in rising, by seconding the motion which has been made to bestow our last honors on the memory of our deceased brother Senator, Judge GRUNDY.

The resolutions were then unanimously adopted, and the Senate adjourned.

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Navy Pensions.

[DECEMBER, 1840.]

## HOUSE OF REPRESENTATIVES.

TUESDAY, December 29.

*Navy Pensions.*

Mr. GIDDINGS moved a reconsideration of the vote by which, on yesterday, the House had passed the bill making appropriation for the payment of Navy Pensions, and which contained an amendment repealing the act of 1837.

Mr. SHEPARD said: The motion to reconsider the bill, which passed the House two days ago, is advocated on several grounds. The member from Massachusetts (Mr. ADAMS) thinks that my amendment, which became the 2d section of the bill, was out of order, and he has been pleased to insinuate that there was something unfair or tricky in the proceeding. You will remember, sir, that I inquired of the CHAIR if the amendment were in order. I did not seize a sly opportunity to thrust it on the House, when my opponents were absent; and the decision being favorable, I have the protection of your shield in differing from the honorable gentleman. He is doubtless well skilled in the law of Parliament; and when he occupied your seat on a celebrated occasion, we were all charmed with the *correctness of his opinions*, as well as the *dignity of his conduct*. But, sir, the 2d section was in order, because it related to the same subject as the 1st; heretofore naval pensions have been paid out of a specific fund, and now, when we are asked to make a draft on the Treasury for that purpose, the natural inquiry is, what has become of the money, set aside by Congress, forty years ago, to meet the just demands of gallant officers and sailors? The act of 1837 has destroyed that fund, and in a bill intended to supply the deficiency, it is certainly proper to remedy the evil, and to kill the insect which has eaten up the substance. If, however, we are wrong, it is too late to make this objection; it is a naked technicality, not favored by the rules of Parliament, and should be taken advantage of at the proper time, whilst a motion to reconsider ought not to prevail except on general merits.

How was the act of '37 passed? It was not discussed, the yeas and nays were not taken on its passage, no man is bold enough to claim its paternity, and it may be said with truth that it sneaked through this Hall quietly and unnoticed on the last night of the session.\* Where was the member from Massachusetts, (Mr. ADAMS?) He is a sleepless dragon over the Treasury, when a political opponent is to be assailed; and why did he not in '37 cry against the *hasty* outrage that was about to be perpetrated? Where was the other gentleman from Massachusetts, (Mr. REED?) He

was a member of the Committee of Naval Affairs, and ought to know something of this extraordinary measure. The honorable member states that a portion of the fund had been given to Mrs. Decatur by a *special act*, and therefore it was thought reasonable to invite other widows and orphans to partake of what had been sacredly devoted to a different purpose. This is *admirable logic*, and might have prevailed with Congress, though the gentleman made no speech to this effect, nor did he object to *haste* on the night of the 8d of March, 1837. It is therefore wise and proper to make an irruption into the Treasury, when the sentinel is asleep, or when good humor and kindly feeling have banished suspicion; but when the enormity is discovered, we are asked not to turn out the intruders with precipitation, but to act cautiously, to consult with each other, to debate, lest harm should come to the unfortunate persons who have exhibited so striking a fondness for other people's property. Sir, this act was passed stealthily, and should be repealed without ceremony.

The member from Massachusetts (Mr. ADAMS) further stated that my amendment was in conflict with the original bill. The first section, quoth the gentleman, provides for the payment of pensions, and the second repeals the law which grants them—so that the bill is made up of inconsistent enactments. If the law of 1837 were the only one that gave pensions, the reasoning would be conclusive; but the honorable member forgot to mention that pensions were due under that of 1800, and perhaps others; should the appropriation of the first section be more than sufficient to carry into effect the old laws of the country, the remainder will be safely kept in the Treasury as an unexpended balance. I hope that the patriotic anxiety of the gentleman will be relieved by this explanation.

Mr. Speaker, I have been particular with these matters, in order to avoid the making of irrelevant issues. I wish the House to decide this question according to its real merits, and, having cleared away the dust and smoke, that might have blinded our eyes, I shall endeavor to take a rapid view of the whole ground of controversy.

In the year 1800, an act was passed for the "better government of the navy of the United States," the 8th and 9th sections of which were as follows: "Every officer, seaman, and marine, disabled in the line of his duty, shall be entitled to receive, for life, or during his disability, a pension from the United States, according to the nature and degree of his disability, not exceeding one-half of his monthly pay," and "all money accruing, or which has already accrued, to the United States from the sale of prizes, shall be and remain forever a fund for the payment of pensions and half-pay, should the same be hereafter granted, to the officers and seamen who may be entitled to receive the same: and if the said fund shall

\* The passage of this act, by which the Navy Pension Fund was plundered, is one of the instances (of which there are too many in our Congressional proceedings) of the manner in which plunder bills can be passed on the last night of the session.

be insufficient for the purpose, the *public faith* is hereby pledged to make up the deficiency: but if it should be more than sufficient, the surplus shall be applied for the making of further provision for the comfort of the *disabled officers, seamen, and marines*, and for such as, though not disabled, may merit by their *bravery, or long and faithful services*, the gratitude of the country." Thus in the pure days of the Government the corner-stone of the pension system was laid, a fund was established to accomplish the benevolent object, and the great principle was declared which should regulate its disposal.

At that time the country was new and thinly settled; it presented to industry the most flattering rewards, and it was difficult to draw our people from the walks of domestic life. Patriotism is a strong feeling, but cannot be relied on except under the pressure of circumstances; love of glory will stimulate the most intellectual, but it has little influence over the great mass of mankind. It was, therefore, wise in the Congress of 1800, to hold out strong inducements to the ambitious and enterprising; they who serve the nation faithfully, should be treated with distinction, and granted every comfort, consistent with our means and their own efficiency. And yet, sir, we may err on this side; the popular mind is apt to be dazzled by military display—if a man goes into an Indian fight he is thought worthy of a seat on this floor, and if he runs away and robs a fellow soldier of his laurels, he is fit for the Presidency—so that there is no need of legislation to exalt the profession of arms. But this law was equally free from niggardliness and false sentiment; it conferred no sinecures, whilst it encouraged the navy to the gallant performance of its duty. If an "*officer, seaman, or marine*," be "*disabled in the line of his duty*," a pension is awarded to him; injury received in the service is the title to public bounty, and if misfortune comes to the brave and zealous, it is in some degree alleviated by the country's gratitude. The whole nation approves of this policy. To turn adrift on the world those who have become unfit for other employment by their devotion to us, would be inexpedient as well as dishonorable; and, without regard to the financial condition of the Government, Congress provided means to cheer and sustain the unfortunate men who might suffer in defence of our flag. The United States gave up all claim to prizes which should be made by vessels of war; half of the money accruing from this source belonged to the captors, and the other half was to "*be and remain forever a fund for the payment of pensions*," for "*the making further provision for the comfort of disabled officers*," &c., or "*such as, though not distinguished, may merit by their bravery*," &c. You will observe, sir, that pensions were not promised to everybody who came within sight of the ocean, or who might possess a commission from the President, and that our

faith was pledged to keep the prize money a sacred deposit for the use of those who were so particularly described. Such was the spirit of the act of 1800; an act that passed before selfishness and injustice predominated in our councils. Let us now examine the laws which have been subsequently passed. In 1818, pensions for five years, payable out of this fund, were granted to "*the widows, and, if no widows, to the children under sixteen years old, of officers who shall be killed, or die by reason of wounds received in the line of duty*." This was the first departure from the act of 1800; and, admitting the propriety of giving the public money to widows and children, whether the officer possessed extraordinary merit or not, and without proof that the assistance of Government was needed, there can be no doubt that the promise of Congress was violated by thus using the navy pension fund. In 1814, the provisions of this last act were extended to the "*widows and children of seamen and marines*"—in 1816, pensions were granted to those who were wounded at Dartmoor prison, or "*the widows and children of such as were killed there*." Afterwards, at different periods, the acts of 1818 and 1814 were renewed, and in 1834 a law was passed granting pensions to the "*widows of officers, seamen, and marines*," who may die from "*casualties, disease contracted, or injuries received in the line of duty*," and directing that the pension "*shall commence from the passage of the act*" though the husband may still be living, and receiving his regular pay. Thus inroads were gradually made on the fund, and its original object was forgotten; yet the interest was more than sufficient to meet these demands, and the principal amounted to upwards of a million of dollars at the close of the year 1836.

The laws of 1837, which my amendment repeals, was then passed, and a new doctrine was slipped into the statute book; it gave pensions to the widows, and, if no widows, to the children of officers, seamen, and marines, "*who have died or may hereafter die in the naval service*." However unjust and impolitic previous acts had been, they were not complained of, because the benefit accrued to the relatives of such as "*were killed, or died by reason of wounds received in the line of duty*"—but now if a sailor should die from an ordinary disease, or the constitution of an officer be broken down by dissipation, their widows and children are entitled to the same pensions as those of the men who fall in battle. Hundreds, therefore, rushed upon the pension fund, and we need not be surprised that it has been nearly consumed; in 1836 the annual charge was \$58,009, in 1838 it reached to \$103,120 33, and in six months—from March to September, 1837—the retrospective operation of the law took \$329,615 from the Treasury.

Sir, I am a friend to the navy; honorable gentlemen shall not monopolize its guardian-

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ship, and assume that the repeal of this law would be hostile to its interests. This great establishment should occupy a high position—it is destined to be the right arm of our safety—and I repeat that ample pay should be given, the highest rewards conferred on skill and bravery, and substantial kindness to suffering and misfortune. But a high-minded man scorns to be an alms-taking pensioner, when nothing has been achieved for the nation, and no injury has been sustained in its service. This act of '37 makes no distinction between merit and worthlessness—the brave man's widow receives no more than the coward's relatives—and the drone or the drunkard is allowed to leave a charge on that country which he has disgraced. A friend informs me of a common trick that is played at the eastward; an old sailor, that is worn out in the merchant service, and feels that he cannot last for a long time, enlists on board of a national ship, and in a few months his widow and children receive a pension from the Government. Such a system will bring the navy into contempt, and people will distrust its patriotism; but if the public bounty be judiciously administered, not a murmur will be heard, and the nation will bear with pleasure the burden on its gratitude.

The member from Massachusetts (Mr. ADAMS) thinks that the act of '37 made a contract, which we are bound to fulfil. An obligation, sir, implies that something is given or done on both sides, and as the gentleman sometimes quotes Blackstone, it is odd that he overlooked the great lawyer on the present occasion. The law of 1800 was undoubtedly a contract, because it was passed at an early period, and may have induced many to hazard their lives in the service; it also embraced the condition of "wounds," "disability," and extraordinary gallantry, which must be complied with before its advantages could be partaken. But the country is not indebted to those who receive pensions under the act of 1837; the husband or father enlisted voluntarily, was paid well, treated kindly, and there is not the slightest evidence of great suffering or uncommon exertions. Does the gentleman contend that pensioners have a vested interest in our liberality? This doctrine would be scouted in Great Britain, the land of pensions and sinecures; if I do not err, a pension was withdrawn from the poet Coleridge, and though such an instance may be regretted, it strengthens my position.

#### Death of Mr. Grundy.

Mr. A. V. BROWN, of Tennessee, rose, and in a very impressive manner pronounced the following eulogium:

MR. SPEAKER: The painful announcement which we have just heard, makes it proper that I should submit to the House the resolutions which I now send to your table.

It is true that the deceased, at the time of his death, was not a member of this House:

but he was once a member of it; and the deep and indelible impress of his talents and patriotism, whilst he was here, the lapse of nearly thirty years has not been able to efface. What record in our archives does not tell of his great and invaluable services, in 1812, '13, and '14, when we declared and prosecuted with success "the second war of independence," against the proudest and strongest nation in the world? The bold and thrilling eloquence with which he urged this body to declare that war, and the readiness with which he voted for all the supplies, both of men and money, necessary to its prosecution, identified Mr. GRUNDY with the most illustrious patriots of that eventful period.

Were these his only services, a nation's gratitude might still challenge at *our hands*, as well as from the body of which he was a member, some tribute of respect to the memory of one who was, at that period, so wise in council and so eminent in debate.

His public career commenced more than forty years ago, in the convention for revising the Constitution of Kentucky. He was then but twenty-one or two years of age; but exhibited, during the deliberations of that body, unerring evidence of his future usefulness and eminence.

He was afterwards, for six years, a distinguished and useful member of the Legislature of that State; losing nothing, by comparison, with any of those eminent lawyers and statesmen of which Kentucky has always been so prolific.

In 1806, he was elected one of the judges of the Supreme Court of that State, and was soon after appointed its Chief Justice, and discharged his duties with industry, impartiality, and distinguished ability.

In the winter of 1807-'8, he removed to Tennessee, and for several years devoted himself exclusively to the practice of his profession, in which he had but few equals, and certainly no superiors. To say this of any one who came in forensic collision with such men as JOHN DICKENSON, Judge HAYWOOD, JENKIN WHITE-SIDE, Judge OVERTON, and in later years with Judge CRABB and WILLIAM L. BROWN, is no ordinary praise. In criminal jurisprudence, even these claimed no competitorship with him; but he stood out in advance of all others, unrivalled as an able, eloquent, and successful advocate.

He served in the Legislature of Tennessee, beginning in 1819, about the same length of time he had done in that of Kentucky—placing on her statute book some of her most valuable laws, and giving to her legislation, by his precepts and example, much of that moral tone and liberality of principle which now distinguishes it.

In 1829, Mr. GRUNDY was elected to the United States Senate, and commenced his labors in that body with the administration of General JACKSON. What his services to the country have been since then, either as a Sena-

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tor or Attorney-General, is too fresh in the recollection of all to need to be repeated on the present occasion. But the future history of this country (when that history can be written unbiassed by the party prejudices of the day) cannot fail to award to Mr. GRUNDY the highest meed of praise, of having been a safe and discreet Counsellor, an eloquent and efficient Senator, and an undoubted Patriot.

The loss of such a man, at any time, must be felt by the nation. At such a moment as the present, when America stands in need of all the talents and all the patriotism of all her most gifted sons, his loss must be deeply felt, and deeply mourned. To his own State, that he so dearly loved, which had honored him so often, and whose recent confidence in him I know he was anxious to repay by the most devoted zeal and fidelity—to Tennessee, his loss must be almost irreparable. But, O God! what must it be to his bereaved family? To her, who has been the wife of his bosom from youth to old age—from the days of his poverty to those of wealth and of fame!—to her, whom we (looking toward Mr. TURNER) so lately saw watching by his side, with such conjugal affection, and such Christian hope?—what to *her* must be his loss? What to his children? But I forbear: I have no right to conduct you into "this house of mourning," whose agonized inmates must look to no earthly source for consolation in this sad hour of their bereavement and sorrow.

Mr. BROWN then sent to the Chair the following resolutions:

*Resolved, unanimously, That as a testimony of respect for the memory of the Hon. FELIX GRUNDY, late a member of the Senate of the United States, this House will go into mourning, and wear crape for thirty days.*

*Resolved, That as a further mark of respect for the memory of the deceased, this House do now adjourn.*

The resolutions were adopted; and  
The House adjourned.

WEDNESDAY, December 30.

*Message from the President—British Outrage at Schlosser—Burning of the American Steamboat "Caroline."*

*To the House of Representatives of the United States:*

I herewith transmit to the House of Representatives a report from the Secretary of State, with accompanying papers, in answer to their resolution of the 21st instant.

M. VAN BUREN.

WASHINGTON, Dec. 28, 1840.

DEPARTMENT OF STATE,  
Washington, Dec. 28, 1840.

SIR: The Secretary of State, to whom has been referred the resolution of the House of Representatives, dated the 21st instant, requesting the President "to communicate to that House (if not in his

opinion incompatible with the public interest) all the correspondence between this Government and that of Great Britain, or the officers or agents of either, or the officers or agents of this Government with the President or any of its Departments, which has not heretofore been communicated to that House, on the subject of the outrage of burning the Caroline on the Niagara frontier; and whether there is any prospect of compensation being made to the owner of said boat for the loss thereof; and, also, whether any communications have been made to this Government in regard to the arrest and imprisonment of ——— McLeod, by the authorities of the State of New York, for being concerned in said outrage; and, if so, that he communicate a copy thereof to that House," has the honor to report to the President, in answer to that resolution, the accompanying papers.

Respectfully submitted.

JOHN FORSYTH.

To the PRESIDENT of the United States of America.

*Mr. Stevenson to Mr. Forsyth.—Extract.*

LEGATION OF THE UNITED STATES,  
London, July 2, 1839.

I regret to say that no answer has yet been given to my note in the case of the "Caroline." I have not deemed it proper under the circumstances to press the subject without further instructions from your Department. If it is the wish of the Government that I should do so, I pray to be informed of it, and the degree of urgency that I am to adopt.

*Mr. Forsyth to Mr. Stevenson.—Extract.*

DEPARTMENT OF STATE,  
Washington, September 11, 1839.

With reference to the closing paragraph of your communication to the Department, dated the 21st of July last, (No. 74,) it is proper to inform you that no instructions are at present required for again bringing forward the question of the "Caroline." I have had frequent conversations with Mr. Fox in regard to this subject—one of very recent date—and from its tone, the President expects the British Government will answer your application in the case without much farther delay.

*Mr. Fox to Mr. Forsyth.*

WASHINGTON, December 13, 1840.

SIR: I am informed by his Excellency the Lieutenant Governor of the Province of Upper Canada, that Mr. Alexander McLeod, a British subject, and late deputy sheriff of the Niagara district in Upper Canada, was arrested at Lewiston, in the State of New York, on the 12th of last month, on a pretended charge of murder and arson, as having been engaged in the capture and destruction of the piratical steamboat "Caroline," in the month of December, 1837. After a tedious and vexatious examination, Mr. McLeod was committed for trial, and he is now imprisoned in Lockport jail.

I feel it my duty to call upon the Government of the United States to take prompt and effectual steps for the liberation of Mr. McLeod. It is well known that the destruction of the steamboat "Caroline," was a public act of persons in her Majesty's service, obeying the order of their superior authorities. That act, therefore, according to the usages of nations, can only be the subject of discussion between the two

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National Governments: it cannot justly be made the ground of legal proceedings in the United States against the individuals concerned, who were bound to obey the authorities appointed by their own Government.

I may add, that I believe it is quite notorious that Mr. McLeod was not one of the party engaged in the destruction of the steamboat "Caroline;" and that the pretended charge upon which he has been imprisoned rests only upon the perjured testimony of certain Canadian outlaws and their abettors, who, unfortunately for the peace of that neighborhood, are still permitted by the authorities of the State of New York to infest the Canadian frontier.

The question, however, whether Mr. McLeod was or was not concerned in the destruction of the "Caroline," is beside the purpose of the present communication. That act was the public act of persons obeying the constituted authorities of her Majesty's Province. The National Government of the United States thought themselves called upon to remonstrate against it; and a remonstrance which the President did accordingly address to her Majesty's Government, is still, I believe, a pending subject of diplomatic discussion between her Majesty's Government and the United States Legation in London. I feel, therefore, justified in expecting that the President's Government will see the justice and the necessity of causing the present immediate release of Mr. McLeod, as well as of taking such steps as may be requisite for preventing others of her Majesty's subjects from being persecuted or molested in the United States in a similar manner for the future.

It appears that Mr. McLeod was arrested on the 12th ultimo; and after the examination of witnesses, he was finally committed for trial on the 18th, and placed in confinement in the jail of Lockport, awaiting the assizes, which will be held there in February next. As the case is naturally occasioning a great degree of excitement and indignation within the British frontier, I earnestly hope that it may be in your power to give me an early and satisfactory answer to the present representation.

I avail myself of this occasion to renew to you the assurance of my distinguished consideration.

H. S. FOX.

Hon. JOHN FORSYTH, &amp;c., &amp;c.,

*Mr. Forsyth to Mr. Fox.*

DEPARTMENT OF STATE.

Washington, December 26, 1840.

SIR: I have the honor to acknowledge, and have laid before the President, your letter of the 18th instant, touching the arrest and imprisonment of Alexander McLeod, a British subject, and late Deputy Sheriff of the Niagara District, in Upper Canada, on a charge of murder and arson, as having been engaged in the capture and destruction of the steamboat "Caroline," in the month of December, 1837; in respect to which you state that you feel it your duty to call upon the Government of the United States to take prompt and effectual steps for the liberation of Mr. McLeod, and to prevent others of the subjects of her Majesty, the Queen of Great Britain, from being persecuted or molested in a similar manner, for the future.

This demand, with the grounds upon which it is made, has been duly considered by the President, with a sincere desire to give to it such a reply as will not only manifest a proper regard for the character and rights of the United States, but, at the same

time, tend to preserve the amicable relations which, so advantageously for both, subsist between this country and England. Of the reality of this disposition, and of the uniformity with which it has been evinced in the many delicate and difficult questions which have arisen between the two countries in the last few years, no one can be more convinced than yourself. It is then with unfeigned regret that the President finds himself unable to recognize the validity of a demand, a compliance with which you deem so material to the preservation of the good understanding which has been hitherto manifested between the two countries.

The jurisdiction of the several States which constitute the Union is, within its appropriate sphere, perfectly independent of the Federal Government. The offence with which Mr. McLeod is charged was committed within the territory, and against the laws and citizens of the State of New York, and is one that comes clearly within the competency of her tribunals. It does not, therefore, present an occasion where, under the constitution and laws of the Union, the interposition called for would be proper, or for which a warrant can be found in the powers with which the Federal Executive is invested. Nor would the circumstances to which you have referred, or the reasons you have urged, justify the exertion of such a power if it existed. The transaction out of which the question arises, presents a case of a most unjustifiable invasion, in time of peace, of a portion of the territory of the United States, by a band of armed men from the adjacent territory of Canada, the forcible capture by them within our own waters, and the subsequent destruction of a steamboat, the property of a citizen of the United States, and the murder of one or more American citizens. If arrested at the time, the offenders might unquestionably have been brought to justice by the judicial authorities of the State within whose acknowledged territory these crimes were committed; and their subsequent voluntary entrance within that territory, places them in the same situation. The President is not aware of any principle of international law, or indeed of reason or justice, which entitles such offenders to impunity before the legal tribunals, when coming voluntarily within their independent and undoubted jurisdiction, because they acted in obedience to their superior authorities, or because their acts have become the subject of diplomatic discussion between the two Governments. These methods of redress, the legal prosecution of the offenders, and the application of their Government for satisfaction, are independent of each other, and may be separately and simultaneously pursued. The avowal or justification of the outrage by the British authorities, might be a ground of complaint with the Government of the United States, distinct from the violation of the territory and laws of the State of New York. The application of the Government of the Union to that of Great Britain, for the redress of an authorized outrage of the peace, dignity, and rights of the United States, cannot deprive the State of New York of her undoubted right of vindicating, through the exercise of her judicial power, the property and lives of her citizens. You have very properly regarded the alleged absence of Mr. McLeod from the scene of the offence at the time when it was committed, as not material to the decision of the present question. That is a matter to be decided by legal evidence; and the sincere desire of the President is, that it may be satisfactorily established. If the destruction of



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the *Caroline* was a public act of persons in her Majesty's service, obeying the order of their superior authorities, this fact has not been before communicated to the Government of the United States by a person authorized to make the admission; and it will be for the court which has taken cognizance of the offence with which Mr. McLeod is charged, to decide upon its validity when legally established before it.

The President deems this to be a proper occasion to remind the Government of her Britannic Majesty, that the case of the "*Caroline*" has been long since brought to the attention of her Majesty's principal Secretary of State for Foreign Affairs, who, up to this day, has not communicated its decision thereupon. It is hoped that the Government of her Majesty will perceive the importance of no longer leaving the Government of the United States uninformed of its views and intentions upon a subject which has naturally produced much exasperation, and which has led to such grave consequences.

I avail myself of this occasion to renew to you the assurance of my distinguished consideration.

JOHN FORSYTH.

H. S. Fox, Esq., &amp;c., &amp;c., &amp;c.

The documents accompanying the President's Message, in relation to the burning of the steamboat "*Caroline*," having been read, and the question being on the reconsideration of the vote by which 5,000 extra copies had been ordered to be printed,

Mr. CUSHING, after some preliminary remarks in relation to the great importance of the subject involved in the documents, called particular attention to the fact, that this was the first time it had been officially avowed that the outrage on the "*Caroline*" was authorized by the Government of Great Britain. You will perceive, said Mr. C., that Mr. Fox says:

"It is well known that the destruction of the steamboat *Caroline* was a public act of persons in her Majesty's service, obeying the order of their superior authorities."

He (Mr. C.) denied the fact, that the outrage being perpetrated under the authority of the British authorities, had been "well known," as alleged by Mr. Fox. Two years ago, Lord Palmerston was asked that question, but it had never been avowed until the present time. Therefore, he would repeat that the assertion as to the fact now avowed being "well known," was, in point of fact, untrue. This had been very properly noticed by the Secretary of State in his reply to Mr. Fox, as follows:

"If the destruction of the *Caroline* was a public act of persons in her Majesty's service, obeying the order of their superior authorities, this fact has not been before communicated to the Government of the United States."

The fact of this avowal, however, gave the subject an importance which it did not before possess. Mr. C. then proceeded to show that as the authorities of the Colonial Provinces had punished American citizens engaged in piratical acts on their coast, by a parity of reasoning the

State of New York had the same right to punish persons engaged in piratical acts within her waters.

Mr. C. then entered into a vindication of the friends of General Harrison, and complained that while at one time they were charged with being the allies and tools of Great Britain, they were now charged with a design to involve the country in war with that power. He denied both the charges.

IN SENATE.

MONDAY, January 4, 1841.

*General Prospective Pre-emption Law.*

The bill to establish a permanent prospective pre-emption system, in favor of settlers on the public lands, who shall inhabit and cultivate the same, and raise a log-cabin thereon, being the special order of the day, was taken up.

Mr. OLAY, of Alabama, said a brief explanation of the principles and enactments of this bill might, perhaps, be proper from him, as he had reported it from the Committee on the Public Lands; but, in this era of good feeling towards "log-cabins" and the tenants of "log-cabins," which had recently been manifested all over the country, he presumed a very brief statement would be sufficient. They lived, he said, in what might be emphatically called the era of good feeling towards those rude places of habitation, and their humble occupants; for, during some months past, they had been the especial and constant theme of high praise and eloquent encomium, not only in the region where they were almost exclusively to be found, but even in our cities, and in more refined parts of the country. Nor (said Mr. OLAY) was this confined merely to political discussions—it had been made to enter into every thing else—even the jewellery worn by many of our most fashionable ladies, and the ornaments which decorated their persons, bore the impress of the "log-cabin" of the wilderness.

He said he might here take occasion to remark that he was no new convert to the policy proposed by this bill. It was one which he had labored to advance, at least with earnest zeal and persevering assiduity, for the last twelve years, in one branch of Congress or the other, except for a brief interval of absence; and even then he was not wholly inactive. It had long been a favorite policy with him, through the medium of pre-emption laws, and other kindred measures, if possible, to make every freeman a freeholder. In favor of such a policy he had often before raised his voice, and expressed his strong convictions. But heretofore he had been the representative of a people who were immediately interested in the passage of bills of this description. When he first took his seat in the other branch of Congress, a considerable district of country, which had been settled for some years, was ready to be brought into market; and, since that period,

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other large portions of the State of Alabama had been acquired by treaties with the Indian tribes, and almost simultaneously covered with a hardy and industrious population. Hence, always heretofore, his constituents were to be benefited by the passage of pre-emption laws, and the support he had given them might, perhaps, have rendered him liable to the imputation of interested motives—as, although he was not personally interested, and never obtained a pre-emption in his life, he might have been supposed to pursue the course he did, to ingratiate himself with his constituents. But now he had the good fortune to occupy a very different position. Every acre of land in Alabama, not owned by individuals, had become the property of the Government; there was no portion of the territory within that State subject to the claim of any Indian tribe. The Indian title to the last remnant of their territory had been extinguished several years ago; and he believed there was none that had not been surveyed for the last twelve or eighteen months. It had been settled still longer, and, consequently, was subject to be claimed under the pre-emption laws of 1838 and 1840. Hence, so far as regarded pre-emptions, all his constituents were provided for, and he was now as disinterested as any other Senator in that chamber. Alabama had no special interest in the bill, except as it embraced lands subject to private entry, commonly called refuse lands. But he was glad to have this opportunity to give disinterested evidence, as he should by his vote on this occasion, of his approbation of the principle and policy of the measure. He was satisfied it was the true policy. He had hitherto maintained, and he now maintained with equal earnestness, that Government ought to extend favor to those who will settle and improve the public lands. He would go further, and say, if the public lands were sold under our pre-emption laws for less money than when sold at auction, even for half price, it would be the policy of this, as it had been of every other Government, to confer peculiar privileges on those who settle and improve them, for thereby this wide-spread domain of the United States was rendered productive, and the resources of the country enlarged and improved.

He (Mr. C.) contended that it was not wild and uncultivated land, however extensive, that constituted the wealth or strength of a country. He contrasted the present condition of the valley of the Mississippi—the great West—with a dense, numerous, and enlightened population, in a high state of improvement and cultivation, yielding annually the most abundant supplies of every thing necessary to the subsistence, comfort, and enjoyment, of civilized man—with what it would have been, had it remained a wilderness till the present day. He asked, how different it was now, either in furnishing resources for the support of Government, or the men and means for the national defence, compared with what it would have been, if it had remained unsettled, unimproved, and uncultivated? Was it not ob-

vious, that it would have been better to have given away all that portion of the public domain to have brought about the present prosperous condition of things, than to have retained it till now, if ten or twenty times the Government price could be realized from its sale? He thought these views could not be well controverted; and if true in regard to the settled part of the country, was it not equally so as regarded the portion of the public domain which still remained unoccupied? If we had derived all the advantages, at which he had hastily glanced, from the occupancy and cultivation of one portion, it was fair to presume, that we should derive corresponding benefits from the improvement and cultivation of another.

But, (said Mr. CLAY,) in point of fact, there is no sacrifice of pecuniary interest on the part of the Government, even at the time of sale, on the plan proposed by this bill—at least none worthy of consideration. He said it would only be necessary for gentlemen to turn their attention to a report made by the Commissioner of the General Land Office, on the 8th of January, 1838, with the accompanying table, and to a similar statement made by him on the 16th of January last, to satisfy them of the correctness of this position. The cash system commenced on the 1st of July, 1820; the report first alluded to, showed the average prices from that time to the 30th of September, 1837; the last gave the average prices from the 22d June 1838, (when the pre-emption law of that year was approved,) up to its date in January last—embracing a period of about nineteen years. The cash system had been in operation about ten years before the passage of the first general pre-emption law—which was on the 29th of May 1830.

Let gentlemen examine the average prices before the passage of that act, and compare them with the average prices since received, and they will be satisfied I am correct in saying the pre-emption laws result in no material loss to the Government. Mr. CLAY then read from the report of the Commissioner of the General Land Office, showing the average prices paid for the public lands, in each year, since the commencement of cash sales, as follows:

The average price paid in 1820 was \$1 40 per acre.

Do.	1821	1 50	do.
"	1822	1 28	"
"	1823	1 30	"
"	1824	1 27	"
"	1825	1 35	"
"	1826	1 33	"
"	1827	1 42	"
"	1828	1 26	"
"	1829	1 26	"
"	1830	1 26	"

Now, (said Mr. CLAY,) up to the 29th of May, 1830, there was no general pre-emption law. For the two years preceding, (1828 and 1829,) the average price in each was but \$1 26 per acre, and it continued the same during the

year 1880, in only the last half of which did that law operate. Here was an excess, in two consecutive years, before the passage of the act, of only *one cent* per acre, above the minimum price; and in the following year, during half of which the first pre-emption law was in operation, the price remained the same.

Now, (said Mr. CLAY,) what has been the result under the pre-emption policy? The official report will answer the question. For the year 1881, (during the first half of which the first pre-emption law continued to operate,) the average price was \$1 28 per acre—two cents higher than it had been either of the three preceding years. In 1882, when no pre-emption law was in force, the average price was but \$1 27 per acre. In 1883, the average price was \$1 29 per acre. In 1884, when a new pre-emption law was passed, to continue in force two years, the average price was \$1 81 per acre; and in 1885, (throughout which the same law was in force,) the average price was \$1 27 per acre. In 1886, during the last half of which there was no pre-emption law, the average price was but \$1 25 per acre; and again in 1887, (still no pre-emption law,) the average price was but \$1 28 per acre.

It also appeared (said Mr. C.) from the statement of the Commissioner, made in January last, exhibiting the result of sales from the 22d of June, 1888, (when another pre-emption law passed,) up to the latest returns, that the average price received for nearly seven millions of acres, was but \$1 26 18-100 per acre; and on the part sold at auction, exclusively, only \$1 29 88-100 per acre.

Now, (said Mr. CLAY,) is it not apparent that the prices received for the ten years before the commencement of the pre-emption system, and those received for the nine years since, during a long portion of which pre-emption laws have been in operation, are not materially different, if at all? Do not these official statements establish that we receive as much money from the actual settler or cultivator as we would receive from the speculator or landmonger? And is not the question distinctly presented, whether we will sell the public domain in small quantities, to men of small capital, who will immediately occupy, improve, and render it productive, or whether it is our better policy to sell at auction to bands of speculators and capitalists in large quantities, to lie idle and unprofitable till they can extort the desired profit from those whose necessities compel them to have it? Yes, sir, this is the question for our grave consideration. And can an American Congress hesitate as to the answer we shall give it by our legislation? He hoped the period when there could be any doubt upon this question had gone by, and that now a favorable response would come from all quarters.

He said he had omitted to mention one fact connected with the sale of the public lands, which was worthy of consideration—that was the greater expense incurred by the Govern-

ment, in sales at auction, than in those under the pre-emption laws, or by private entry. In the latter, the Government was at no expense whatever, beyond the regular and established salary and commissions of the registers and receivers; while the sales at auction involved additional expenses, in the employment of auctioneers, extra compensation to registers and receivers, and expenditure for additional clerk hire—he had not made any precise estimate—but probably amounting to at least four or five per centum. And this amount of additional expense was to be deducted from the small excess above the minimum, which might appear to be gained by sales at auction.

But (said Mr. CLAY) suppose the Government were to profit even to double the amount of the average excess which may be supposed to appear by the reports from the General Land Office, to which he had referred, would the paltry difference of two or three, or even ten cents an acre, be a sufficient inducement with American statesmen to jeopard the peace, the safety, and the interest of the numerous families which are annually settled on the public lands? No, sir; the Government would lose infinitely more by such a course, in paralyzing the energies, and crippling the resources of those hardy and enterprising pioneers, than could be compensated by any pecuniary gain.

Sir, (said Mr. CLAY,) money is the smallest, and about the last, consideration, that should enter into or influence our policy in the management of the public domain. It is a consideration which has never controlled the policy of other Governments, over which it is our pride to boast a superiority. It was not the policy of Great Britain, still less, perhaps, of France and Spain, in the disposition of the lands claimed by them at an earlier period of our history. Occupancy, cultivation, and improvement of the resources of the country, were the considerations upon which they granted the lands of the Crown.

Nor was money the consideration which induced the original States to cede portions of their territory, except, perhaps, so far as to aid in the payment of the national debt, contracted in the war of independence. They had much more exalted purposes in view; to put down controversies about territorial limits; to quiet jealousies between the different members of the confederacy; to build up prosperous communities; to create new States, and thereby add new stars to the bright constellation of our glorious Union. These were the bright and laudable motives which operated upon all the States which made cessions of their territory; it was apparent in all the compacts between those States and the General Government, especially in that of Virginia, the mother of States; and not the sordid consideration of making money for themselves, or the General Government.

He further remarked, that the bill under consideration might be fairly regarded merely as a measure to change the mode of sale from auctions

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to private entry. He thought he had sufficiently shown that it would not materially affect the amount of revenue derived from this source, even if the quantity sold should be the same. But he said the sales would undoubtedly be greatly augmented, and, consequently, much more money would be brought into the Treasury within a given period, than under the present system.

This bill, too, was free from the objections which had been urged against the other pre-emption laws of the last twelve years. It had been urged that, by those pre-emption laws, rewards were given to persons who were trespassers on the public property, who were worthless in character, and who set the law at defiance, by settling upon the public domain, with no more right than they had to seize upon the public Treasury, upon our vessels of war, and our forts and arsenals. Now such was not the bill under consideration. Here the bill was prospective, unless it was in respect to those who had become settlers since the date of the last pre-emption law. The main object of the bill was not to protect those who were called trespassers and violators of the laws, but to say to the hardy cultivator of the land, who gave an earnest of being a cultivator, that he should be safe in the possession of the fruits of his labor. Nor was it confined, as was said by another class of objectors, to the inhabitants of the valley of the Mississippi, or to the great West. Heretofore it had been urged that the bills were partial—it was objected, not only that they were rewarding the violators of the law, but that they were confining its advantages to them and to the settlers within the limits of the new States and Territories; but this was broader in its provisions, and it held out the same inducements to the industrious and enterprising of the old States, that it held out to the new States. Now, he regarded this as an important feature in this bill, and one which, with due deference for those who differed from him in opinion, it seemed to him should silence all objectors, leaving out of view the enthusiasm in favor of log-cabins and their occupants, which had been prevailing for some time past. But by this law the poor man of the old States had it placed within his power, if industrious and enterprising, to go forward to the new States, with a guarantee held out to him of a title to his land on the payment to the Government of \$1 25 per acre. It seemed to him that by the old States it should be regarded with more favor than by the new States. In the new States they had learned by experience, and the practice of enterprise and industry, that they could be independent. There were in those Territories few wealthy landlords, with crowds of tenants around them; but he should be pleased to know what number of freemen there were in the older States who were not freeholders, but who were dependent on their daily labor for the support of themselves and their families.

They were doubtless very numerous—and to all such the bill held out the promise of relief.

A citizen of an old State, if he stands in need of a permanent home, to subsist, rear, and educate his family, is here guaranteed one, if he has the enterprise to seek it. Now was there any objection to this? It was the principle of a free Government that every citizen should have the power of free locomotion—that every one should have the right to remove from one part to another, and even to abandon his country if he thought proper. Let not, then, this be any longer called a new State measure, or one that is partial in its operation; it was no longer calculated to benefit the new States or Territories, but to benefit every one, from one end of this wide-spread confederacy to the other, and at the same time to be just to the Government; it only required that a man should become a cultivator of the soil—that he should place himself on any part of the uncultivated lands, and pay to Government the minimum price. It was equal in its operation—holding out the same boon to citizens of the old as well as the new States—and requiring the same price from all.

This measure, then, not only recommended itself to the favor of all those who supported the pre-emption projects of the last twelve years, but it assumed higher ground: instead of being partial in its operation—instead of being confined to the new States and Territories, it extended the privilege alike to the citizens of all the twenty-six States; while it was liberal to the people, it did no injustice to the Government; and he trusted it would pass with a unanimity with which no other measure ever has passed in regard to the public lands.

Mr. BENTON said the two bills standing together on the special orders, in relation to the public lands, the one for graduating the price, and the other for re-establishing a permanent pre-emption system, were bills upon the same subject, mutually connected with each other, and very fit and proper to be discussed and passed together. It would be difficult to discuss one without discussing the other; and, as it would save time, and be within the rules of propriety and order, he should avail himself of the discussion of one to speak of both.

It would be recollected, that he had heretofore spoken of the sentiments of the present President of the United States, (Mr. VAN BUREN,) as being favorable to the principles of both bills—as having presented his opinions to that effect in official Messages—and he had taken it upon himself to say that he was entitled to more credit for the sentiments he had expressed, and the part he had acted on this subject, than any public man in the United States; and he (Mr. BENTON) had said these things with a full knowledge of what he was saying, and with a full determination to prove what he said when the proper opportunity presented itself.

That opportunity had now arrived. The two bills were before the Senate; the discussion had commenced upon them; and the officially expressed opinions of the President were fit and proper matter to be presented to the Senate. He would, therefore, present the recommendations of President VAN BUREN on the subject of pre-emptions and graduated prices of the public lands, as he found them in his annual Messages, and he would afterwards say something in justification of his assertion, that Mr. VAN BUREN deserved more credit for his conduct on the question of the public lands, and was entitled to more gratitude from the cultivating and farming interest, than any other public man in America.

The first extract to which he would call the attention of the Senate, was from the President's Message of December, 1837, which was in the following words:

"A large portion of our citizens have seated themselves on the public lands, without authority, since the passage of the last pre-emption law, and now ask the enactment of another to enable them to retain the lands occupied, upon payment of the minimum Government price. They ask that which has been repeatedly granted before. If the future may be judged of by the past, little harm can be done to the interests of the Treasury by yielding to their request. Upon a critical examination, it is found that the lands sold at the public sales, since the introduction of cash payments, in 1820, have produced, on an average, the net revenue of only six cents an acre more than the minimum Government price. There is no reason to suppose that future sales will be more productive. The Government, therefore, has no adequate pecuniary interest to induce it to drive these people from the lands they occupy, for the purpose of selling them to others." \* \* \* \* \* "A policy which should be limited to the mere object of selling the lands for the greatest possible sum of money, without regard to higher considerations, finds but few advocates. On the contrary, it is generally conceded, that, while the mode of disposition adopted by the Government should always be a prudent one; yet its leading object ought to be the early settlement and cultivation of the lands sold; and that it should discountenance, if it cannot prevent, the accumulation of large tracts in the same hands, which must necessarily retard the growth of the new States, or entail upon them a dependent tenantry, and its attendant evils."

In the Message of December, 1838, he found the following passage:

"Our experience under the act passed at the last session, to grant pre-emption rights to settlers on the public lands, has as yet been too limited to enable us to pronounce with safety upon the efficacy of its provisions to carry out the wise and liberal policy of the Government in that respect. There is, however, the best reason to anticipate favorable results from its operation. The recommendations formerly submitted to you in respect to a graduation of the price of the public lands, remain to be finally acted upon. Having found no reason to change the views then expressed, your attention to them is again respectfully requested."

The Message of December, 1839, contained these observations:

"On a former occasion your attention was invited to various considerations, in support of a pre-emption law in behalf of the settlers on the public lands, and also of a law graduating the prices for such lands as had long been in the market unsold, in consequence of their inferior quality. The execution of the act which was passed on the first subject, has been attended with the happiest consequences, in quieting titles, and securing improvements to the industrious; and it has also, to a very gratifying extent, been exempt from the frauds which were practised under previous pre-emption laws. It has, at the same time, as was anticipated, contributed liberally during the present year to the receipts of the Treasury.

"The passage of a graduation law, with the guards before recommended, would also, I am persuaded, add considerably to the revenue for several years, and prove in other respects just and beneficial.

"Your early consideration of the subject is therefore once more earnestly requested."

And, lastly, from the Message of December, 1840, he made the following quotation:

"The available balance in the Treasury on the 1st of January next, is estimated at one million and a half of dollars. This sum, with the expected receipts from all sources during the next year, will, it is believed, be sufficient to enable the Government to meet every engagement, and leave a suitable balance in the Treasury at the end of the year, if the remedial measures connected with the customs and the public lands, heretofore recommended, shall be adopted, and the new appropriations by Congress shall not carry the expenditures beyond the official estimates."

Now these were extracts from the four different Messages from Mr. VAN BUREN during the four years that he had filled the Presidential chair. The extracts spoke for themselves; they showed the sentiments of the President; and they showed him to be what a patriot President should be—the uncompromising enemy of speculators, and the frank and thorough friend of the settlers and cultivators. The President was for pre-emptions, and gradative prices; and these were the two things which the speculators abhor, which the good of the country required, and what every settler and cultivator had been demanding for many years. The sentiments of Mr. VAN BUREN were made clear on these two great points. He had spoken for himself, and that not once, or twice, but four times; not in a private conversation, or in a letter, or in electioneering harangues, but officially and publicly, in his high character of President, and under the responsibility of the constitutional injunction to recommend to Congress the measures which he deemed proper for their consideration. These were the sentiments—this the conduct of President VAN BUREN; and for the manner in which he had taken these sentiments up, and expressed them—the candid manner in which he had taken them up, and the responsible manner in which he had ex-

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*General Prospective Pre-emption Law.*

[JANUARY, 1841.]

pressed them—he had placed himself at the head of the list of the friends of the graduation and pre-emption policy, and had entitled himself to the gratitude and confidence of all the friends of these measures.

He accorded this high praise to Mr. VAN BUREN without any reservation, and without any exception whatever. He excepted nobody—not even any one from the new States—and least of all did he except himself. He (Mr. BENTON) and others from the new States, who had supported the pre-emption and the graduation policy, had done their duty in a good cause, but their merit could not be equal to that of statesmen from the Atlantic States, who had renounced unfounded prejudices against these important measures, and became their ardent supporters, and that against a powerful adverse interest. This was the case of Mr. VAN BUREN. He was a member of that Senate when these measures had but few friends there, and when the settlers on the public lands, the pre-emption bills for their benefit, and the graduation bill, were all accustomed to be denounced, and that by Western men, in terms of unmeasured condemnation. Mr. VAN BUREN was a member of this body when he, (Mr. BENTON,) almost solitary and alone, pleaded the cause of the Western pioneer—claimed protection for the meritorious settler—and argued the justice of reducing the price of the public lands according to its reduced quality and value. His solitary voice was overpowered at that time, and his bills were treated as preposterous, absurd, and impracticable measures, and were said to be repudiated by the people of the West themselves. This was what Mr. VAN BUREN, in common with other Senators from the Atlantic States, was accustomed to hear; and it was natural that such representations, coming from Western men, should have their influence upon a stranger to the West, and prejudice his mind against the settlers on the public lands, and against all the measures intended for their relief. It was natural that such should be the effect produced; and accordingly Mr. VAN BUREN, with almost the whole body of Atlantic Senators, voted against pre-emption bills, and graduation bills, during the time that he was a Senator on this floor; but his mind, though misled, was just and candid, and open to the convictions of truth; and during the four years that he presided over this body—during the four years of his Vice Presidency that he sat in the chair of the President of the Senate, and gave such punctual attendance and such respectful attention to their debates—during these four years his prejudices became entirely removed, and he became favorable to the bills which he had formerly opposed. This change took place under the progress of discussion, and under circumstances which proved that it was as disinterested and as fearless, as it was enlightened and equitable. It took place during the progress of an adverse measure—the land revenue distribution bill—a measure calculated

to enlist all the old States against the settlers, against pre-emptions, and against reduced prices of the public lands. It was in the face of this antagonist measure—it was during the progress of this adverse bill, so hostile to the settlers and the new States, and so well calculated to array all the old States against the new ones—it was during the progress of this measure which presented so much to the hopes of a calculating politician, and when some former friends of the new States were faltering and giving way before it—it was in this crisis that Mr. VAN BUREN became sensible of the correctness of the graduation and pre-emption policy; and from that time he only waited the appropriate opportunity to manifest his sentiments. That opportunity presented itself when he became President of the United States, and in that character had to discharge the constitutional duty of recommending to Congress the measures which he deemed proper for their consideration. In his first annual Message, he recommended the graduation and pre-emption policy: in his second Message he did the same; in the third he repeated the recommendation; and in his fourth and last, he has adhered to it. This has been his conduct in relation to these important measures; and upon this statement of facts, as concisely as they were correctly stated, he (Mr. BENTON) rested the assertion, that Mr. VAN BUREN stood at the head of the list of the meritorious friends of the graduation and pre-emption policy, and was entitled to the gratitude and confidence of all who believed, as he did, that that policy was the true policy of the country, combining in the highest degree the interest of the individual with the interest of the public.

Having done this justice to Mr. VAN BUREN, and availed himself of the advantage of his arguments in favor of the two bills referred to, he (Mr. BENTON) would go on to give his own testimony, derived from experience, in their favor. It was now thirty-one years since he had first been called to act in a legislative capacity on the subject of pre-emptions, and fourteen years since he had first moved the graduation policy on this floor; and all experience had confirmed him in his opinion in favor of the wisdom and justice of both measures. As far back as the year 1809, he had been a member of the General Assembly of the State of Tennessee—a member of the Senate of that State—and in that capacity, had given his cordial support to the pre-emption policy, extended by that State to the settlers on the public lands of the State south of the Holston River. He had seen the operation of the pre-emption law then passed by the Legislature of that State, and he had seen the operation of all the pre-emption laws since passed by Congress. He had seen all—literally seen it; for his residence in the West enabled him to see it; and he could truly say that the operation of these laws had been equitable and beneficial—good for the individual settler—good for the public Treasury—good for the country. He was, therefore,

confirmed in the policy by the test of experience, and should continue to give it an ardent support. He was for the settler—for the man that went forward amidst every danger, under every privation, and against every hardship, to build his log-cabin in the depth of the wilderness, and to provide by his labor and his courage for the support and defence of his family. The soil should go to the cultivators, was his doctrine; the first comer having the first choice; the second comer the second choice; and so on to the end of the list, speculators and general purchasers taking their choice after the first settlers were provided for. Thus, experience had tested the benefit of the pre-emption system; it had done the same with the graduation principle, for this principle had been tried in the State of Tennessee, and had worked well there: it had been tried in the State of Mississippi, on the Chickasaw lands, and by virtue of a clause in their treaty, ratified by the Senate of the United States, and had worked well there. The graduation principle had worked well in both these instances, and the public mind of all the new States, and in all the Territories, was entirely in favor of it. It was as necessary in the old countries as the pre-emption bill was in the new ones; and the current of public opinion was now so strong in its favor, that those who ridiculed it when he (Mr. Benton) first brought it forward, now eclipsed him in their zeal, and laid hold of the graduation bill as a passport to popularity, and as a ladder to promotion.

Mr. MANGUM rose to make some inquiry respecting certain provisions of the bill. He said there was a provision that from and after the passage of this act, every head of a family, etc., should be entitled to certain privileges therein mentioned; and he wished to know whether it was intended that there should be a limitation to color, or whether blacks were intended to be included, as well as white persons.

He also inquired whether the bill was intended to comprehend aliens as well as free citizens. It appeared to him, some of the terms used in the bill were exceedingly comprehensive, and yet indefinite. He wished further to know how long a person would be required to occupy the public land, before he would be entitled to the privileges proposed by this bill; and he was desirous of being informed what guard or security there was that one person would not settle on ten or twelve successive sections of land in the same year.

He saw no provision respecting the length of occupancy, nor any to prevent a settler entering half a dozen or more sections at the same time; and he would be glad if the friends of this bill would give him the information which he desired before he voted on the bill. He further observed that it appeared to him, if this bill passed, it would revolutionize the whole land system of the country, and confer the power on the register and receiver of the dis-

trict, and the Commissioner of the Land Office—higher judicial power than was known to be bestowed to any officers in this country; in truth, the whole land would be subject to a central system, and the existing land system might be dispensed with. He further complained that the bill would be unequal in its operation, and consequently unjust towards some portion of our citizens, who could not by possibility derive the slightest advantage from this law. He insinuated that those "boys" of eighteen years of age, who, by this act, would be entitled to pre-emption, would be twenty-one four years hence; and after stating that he did not propose to go into a discussion of this bill, concluded by observing that he was opposed to its whole policy.

He afterwards again rose, and moved the amendment of a section to which he had referred, by introducing the word "white" before "persons," thereby limiting the right to pre-emption, so as to exclude persons of color.

Mr. CLAY, of Kentucky, called for the ayes and noes thereon, which were ordered, and the question being taken, it was decided in the affirmative, as follows:

YEAS.—Messrs. Allen, Anderson, Benton, Buchanan, Calhoun, Clay of Alabama, Clay of Kentucky, Clayton, Crittenden, Dixon, Fulton, Graham, Henderson, King, Knight, Linn, Lumpkin, Mangum, Merriam, Mouton, Nicholas, Norvell, Pierce, Preston, Roane, Robinson, Ruggles, Sevier, Smith of Connecticut, Smith of Indiana, Sturgeon, Tallmadge, Tappan, Walker, Wall, Williams, and Young—87.

NAYS.—Mr. Porter—1.

Mr. MANGUM then moved the insertion of the words "being a citizen of the United States" after the words "single man," so as to exclude aliens from the right of pre-emption.

Mr. CALHOUN inquired whether, in point of fact, any but a citizen could hold land; and he was informed that aliens could hold land in Ohio.

Mr. CLAY, of Alabama, was also understood to say that aliens could hold land in many of the new States.

Mr. CALHOUN remarked that the law in this particular should conform to the laws of the respective States.

Mr. CLAY, of Alabama, said this was no new question; but no bill of this description ever did contain a provision like that now proposed to be inserted; and yet no evil was known to grow out of them. This ought to be satisfactory to the Senator from South Carolina.

Mr. CALHOUN said this was with him a question of principle; and he had merely made the inquiry, that he might have a knowledge of the fact.

Mr. SMITH, of Indiana, said this was a bill of great importance; and as he was of opinion that it would require many amendments, he would suggest, as it was past three o'clock, the usual hour of adjournment, that the bill should be passed over.

Mr. BUCHANAN said that we ourselves soon forgot what had passed in this body. It is not yet three years since this very question was argued at considerable length, and solemnly decided by the Senate. When the last pre-emption bill was under consideration, in January, 1838, the Senator from Maryland (Mr. MERRICK) had moved to exclude foreigners from the benefit of its provisions; and after much debate this motion was negatived. From the investigation which then took place, the fact was established, that from the very beginning of our land sales, foreigners had always been permitted to purchase the public lands in the same manner as if they were our own citizens. No inconvenience had ever, to his knowledge, resulted from this practice. No person even now proposed to change it. This was the established policy of the country. The attempt now made was not to prevent foreigners from purchasing the public lands, but from acquiring the right of pre-emption. For his own part, he thought that the alien who came to this country, traversed the Atlantic States, and made a settlement with his family in the wilderness of the far West, ought not to be excluded from the privilege of purchasing at the minimum price, in preference to all other persons, the small tract of land which he had improved, merely because he had drawn his first breath in a foreign land. In this particular he ought to be placed on the same footing with our own citizens.

The uniform practice of selling the public lands to foreigners interfered with no right of any of the States, no matter whether aliens were permitted to purchase lands under their laws or not. The title thus acquired by the alien would be good against all mankind except the sovereign State within whose limits the land was situated. If under its laws aliens could not hold real estate, the State might forfeit it by the common law process of escheat. None of the new States had ever adopted this course. On the contrary, they were all glad that emigrants from other countries should purchase and cultivate these lands. He was, therefore, prepared, both on principle and policy, to vote against the amendment of the Senator from North Carolina, (Mr. MANGUM.)

Mr. CLAY, of Kentucky, said it was very true that this question, as had been observed by the Senator from Pennsylvania, had been raised some years ago; and he also believed, beyond the mountains, aliens were allowed to hold land, but he also believed that there was some condition required in almost all the States—in some of them, a residence of two or three years. Now it might be a question whether they should extend the privilege except to those holding by State authority—and aliens who hold were not entitled to a vote—but he (Mr. CLAY) was opposed on principle to the proposition that aliens should be invited from every portion of the habitable globe, to take possession

of the public lands on terms so peculiarly favorable as were proposed by this bill.

Whilst a man is an alien, owing allegiance to any foreign power, he ought not to exercise the right of franchise in our country; nor ought either the serfs of Russia, or the subjects of Austria, or of England or France, bound by their allegiance to a foreign potentate, to be allowed, until they renounced their fealty to their original potentate, to enjoy the privilege of American freemen. On this question he hoped, neither there nor elsewhere, would there be any diversity of opinion, whatever there might be of the necessity of a greater or less restriction in the acquisition of the rights of an American citizen in the different stages of the national progress, in its infancy and maturity. There was another point on which there ought not to be any diversity of opinion. Though it might be the practice of our Government to sell the soil of our country alike to aliens as to citizens, there should not be extended an invitation to aliens to come and purchase our land; and yet such would be the effect of this bill. It was a question of sound policy whether they would hold out to all, without or within this country, these peculiar privileges of pre-emptioners. He (Mr. CLAY) should conform his vote to that which he had given this question three years ago.

Mr. BUCHANAN said, that like the Senator from Kentucky, (Mr. CLAY,) he would most cordially adhere to the vote which he had given on this question three years ago. He agreed with the Senator, that until a foreigner became a citizen, he ought not to be permitted to exercise the elective franchise. But the present case was far different. What, after all, was this privilege of pre-emption, about which we had heard so much? Was it a gift of the land? No. Was it a sale of the land below the ordinary price fixed upon it by the Government? Certainly not. What then was it?

We had ascertained by long experience that the public lands, from some cause or other, do not command at public sale on an average more than two or three cents per acre more than the minimum price. The reason of this, we may easily conjecture? The bands of speculators who attend these sales, combine for the purpose of keeping down the price to the minimum standard. They are thus enabled to obtain the choice tracts at but one or two cents above one dollar and twenty-five cents per acre. Now what is the great privilege which we confer by this bill? It is nothing more than this:—that the man who goes into the wilderness—selects a quarter section of land—erects his log-cabin upon it, and brings it into a state of cultivation, shall not be turned out of house and home by any greedy speculator who may have cast his longing eyes upon it. This spot of land is not offered at public sale, but is reserved for the actual settler, *provided he pays for it in cash at the rate of one dollar and twenty-five*



*cents per acre.* The Government may thus, by possibility, lose one, two, or three cents on each acre, in securing to this poor man his selected home. This is the sum total of the benefit to him and the loss to the Treasury; without bringing into the account the advantage which the country derives from having its vacant lands settled and cultivated by a brave and hardy population.

Now, in regard to aliens. The Senator has admitted that, from the origin of the Government until the present day, they have been permitted to purchase the public lands of the West, either at public sale or by private entry. This fact is incontrovertible. Then why make an odious distinction against foreigners in this particular case? If you permit them to purchase in every other form, why deny to them the privilege of purchasing as pre-emptioners? The alien who flies from oppression at home, and makes his way into the far West, and there fixes his habitation, at the same time places his body as a barrier against the attacks of the savage foe which your policy has collected on that frontier; such aliens thus furnish stronger evidence of their fidelity to the country, and of their intention to become citizens, than they could do by a mere declaration to this effect, under the naturalization laws, though, he presumed, such a declaration was made by them in almost every instance. A man who merely does this, may change his intention before he becomes a citizen; but the man who makes a settlement on the public land, and purchases it from the Government, thus identifies his own fate and that of his family, for weal or for woe, with our Government. From such men we have nothing to apprehend. And shall we suffer even the alien speculator, who has no intention of ever becoming a citizen, to purchase the humble dwelling of this poor man, and drive him out of possession? Such might often be the case, if it were not for your pre-emption laws. For my own part, I shall always most cheerfully, as long as I shall be honored with a seat in the Senate, grant this trifling privilege to the actual settler, whether he has emigrated from the old to the new States, to improve his condition, or has fled from oppression in the old world, to live under the protection of our Republican institutions.

Mr. BENTON said there were no restrictions in Missouri upon the acquisition of lands by aliens—that it was the policy of the State to encourage emigration, and she had therefore placed foreigners on a level with citizens in what relates to the rights of property.

With respect to the present motion to exclude aliens from the benefit of the pre-emption laws, he said it was the repetition of a motion which had been made two years ago, and which had been then rejected; and he saw no new reason for bringing it forward now. It was, in his opinion, an impolitic and an unwise motion, and the reasons given for it were un-

founded and untenable. What were those reasons? Why, that it gives a right in our soil to emigrants from foreign countries, before they have abjured allegiance to their native country, and encourages the refuse of the European population to come to our country. Now this bill could offer inducements to no one to come but such as meant to live by their labor, and by the most useful and honorable of all pursuits—that of agriculture. To such only could the pre-emptive privilege be an inducement to leave their own country and remove to the United States; and all such must be most welcome accessions to our population. To receive the benefit of the bill, the emigrant must go and settle on the public land—he must clear it and cultivate it, build a log-cabin upon it, and inhabit it. This was a real pledge of fidelity to the country—a better one than an oath of abjuration of foreign allegiance could give. The settler, under such circumstances, became at once a meritorious inhabitant; he attached himself to the soil; he began to add to the mass of the national wealth, by adding to the mass of the national production; he took his place among the farmers, and from the first moment felt his attachment to the country in which he was instantly elevated to the class of freeholders; and his feelings were communicated to his children, and love of America grew up in their hearts, and predominated in their affections. For himself, he (Mr. BENTON) could say that his own experience was entirely in favor of the measure. He had seen the effect of the pre-emption privilege in Missouri in favor of foreign emigrants; it drew a vast many of them to the State, and instantly converted them into meritorious cultivators of the soil. Germans, especially, came in vast numbers, and were continuing to arrive, and the country deeply felt the benefit of their labors. They were forming large settlements, and towns and villages, and were incorporating with the population and becoming part of its mass. The passage of this bill, and its twin-brother, the graduation bill, by which the inferior lands will be reduced in price, will greatly augment this emigration; and he (Mr. BENTON) should rejoice to see it. Emigrants who came here to deal in money, found no restrictions upon their acquisitions; alien merchants or bankers may acquire millions, and carry them away. To this none of the gentlemen objected. Then why should they object to the acquisition of a few hundred dollars' worth of land by an alien, when he must remain and cultivate that land for the general good as well as for his own individual benefit, for he could not carry it away from the country? This was absurd; and he (Mr. BENTON) was astonished to see the difference which was made between the acquisition of real and personal estate. The alien banker or merchant may acquire unlimited millions, and exercise vast influence over the policy and elections of the country; the solitary cultivator who would work his lit-

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*Message from the President—Burning of the Caroline.*

[JANUARY, 1841.]

the field in the woods, having no power to influence anybody, is objected to as a dangerous character. This was preposterous, and the objection could not hold. The motion to exclude aliens had been rejected heretofore by a decided vote of the Senate, and he trusted it would be so rejected again.

The question on adopting the amendment proposed by Mr. MANGUM being taken, it was decided in the negative, as follows:

YEAS.—Messrs. Clay of Kentucky, Clayton, Crittenden, Dixon, Graham, Huntington, Knight, Mangum, Merrick, Prentiss, Preston, and Ruggles—12.

NAYS.—Messrs. Allen, Anderson, Benton, Buchanan, Calhoun, Clay of Alabama, Fulton, Henderson, Hubbard, King, Linn, Lumpkin, Mouton, Nicholas, Norvell, Pierce, Porter, Roane, Robinson, Sevier, Smith of Connecticut, Smith of Indiana, Sturgeon, Tallmadge, Tappan, Walker, Wall, Williams, Wright, and Young—30.

And the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, January 4.

#### *Negroes of the Amistad.*

Mr. ADAMS, from the Select Committee appointed to examine and report whether the documents presented to the House on this subject have been falsified in the translation from the Spanish, made the following report:

The Select Committee appointed on the 10th inst., with liberty to send for persons and papers, to ascertain and report to the House whether the printed House document of the last session, No. 185, has been falsified, materially differing from the manuscript document transmitted by the President of the United States, and if so, by whom the said falsification was made, respectfully report—

That a material alteration has been made from the manuscript transmitted by the President to the House by the substitution of the word *sound* for the word *ladino*, in the manuscript, in the translation, at page 48 of the printed document, of a paper purporting to be a passport for 49 slaves, belonging to J. Ruiz, and by the substitution of the same word *sound* for the word *ladino* in the translation at the 49th page of the printed document, of a paper purporting to be a passport for three slaves belonging to P. Montez.

That this substitution was in both cases made by John H. Trenholm, the proof reader at the office of Messrs. Blair and Rives, the Printers of the House.

The committee submit herewith the testimony taken by them in the performance of the duty assigned to them by the House, and in which will be seen the reasons adduced by Mr. Trenholm for making these alterations. And they have instructed their chairman to move that they be discharged from the further consideration of the subject.

J. Q. ADAMS.

The report was laid on the table, and with the accompanying papers, ordered to be printed.

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#### *Message from the President—Burning of the Caroline.*

*To the House of Representatives of the United States:*

I think proper to communicate to the House of Representatives in further answer to their resolution of the 21st ultimo, the correspondence which has since occurred between the Secretary of State and the British Minister on the same subject.

M. VAN BUREN.

WASHINGTON, January 2, 1841.

*Mr. Fox to Mr. Forsyth.*

WASHINGTON, December 29, 1840.

SIR: I have the honor to acknowledge the receipt of your letter of the 26th instant, in which, in reply to a letter which I had addressed to you on the 13th, you acquaint me that the President is not prepared to comply with my demand for the liberation of Mr. Alexander McLeod of Upper Canada, now imprisoned at Lockport in the State of New York, on a pretended charge of murder and arson, as having been engaged in the destruction of the steamboat Caroline, on the 20th of December, 1837.

I learn with deep regret that such is the decision of the President of the United States; and I cannot but foresee the very grave and serious consequences that must ensue, if, besides the injury already inflicted upon Mr. McLeod, of a vexatious and unjust imprisonment, any further harm may be done to him in the progress of this extraordinary proceeding.

I have lost no time in forwarding to her Majesty's Government in England, the correspondence that has taken place, and I shall await the further orders of her Majesty's Government with respect to the important question which that correspondence involves.

But I feel it my duty not to close this communication, without likewise testifying my vast regret and surprise at the expressions which I find repeated in your letter with reference to the destruction of the steamboat Caroline. I had confidently hoped that the first erroneous impressions of the character of that event, imposed upon the mind of the United States Government by partial and exaggerated representations, would, long since, have been effaced by a more strict and accurate examination of the facts. Such an investigation must even yet, I am willing to believe, lead the United States Government to the same conviction with which her Majesty's authorities on the spot were impressed, that the act was one, in the strictest sense, of self-defence, rendered absolutely necessary by the circumstances of the occasion, for the safety and protection of her Majesty's subjects, and justified by the same motives and principles which, upon similar and well-known occasions, have governed the conduct of illustrious officers of the United States. The steamboat Caroline was a hostile vessel, engaged in piratical war against her Majesty's people; hired from her owners for that express purpose, and known to be so beyond the possibility of doubt. The place where it was destroyed was nominally, it is true, within the territory of a friendly power; but the friendly power had been deprived, through overbearing, piratical violence, of the use of its proper authority over that portion of territory. The authorities of New York had not even been able to prevent the artillery of the State from being carried off publicly at midday, to be used as instruments of war against her Majesty's subjects.

JANUARY, 1841.]

*Message from the President—Burning of the Caroline.*

[26TH CONG.]

It was under such circumstances, which it is to be hoped will never recur, that the vessel was attacked by a party of her Majesty's people, captured, and destroyed. A remonstrance against the act in question has been addressed by the United States to her Majesty's Government in England. I am not authorized to pronounce the decision of her Majesty's Government upon that remonstrance; but I have felt myself bound to record, in the mean time, the above opinion, in order to protest in the most solemn manner against the spirited and loyal conduct of her Majesty's officers and people being qualified, through an unfortunate misapprehension, as I believe, of the facts, with the appellation of outrage or of murder.

I avail myself of this occasion to renew to you the assurance of my distinguished consideration.

H. S. FOX.

*Mr. Forsyth to Mr. Fox.*

DEPARTMENT OF STATE,  
Washington, Dec. 31, 1840.

SIR: I have the honor to acknowledge the receipt of your note of the 29th inst. in reply to mine of the 26th, on the subject of the arrest and detention of Alexander McLeod, as one of the perpetrators of the outrage committed in New York when the steamboat Caroline was seized and burnt. Full evidence of that outrage has been presented to her Britannic Majesty's Government, with a demand for redress, and of course no discussion of the circumstances here, can be either useful or proper; nor can I suppose it to be your desire to invite it. I take leave of this subject with this single remark, that the opinion so strongly expressed by you on the facts and principles involved in the demand for reparation on her Majesty's Government by the United States, would hardly have been hazarded, had you been possessed of the carefully collected testimony which has been presented to your Government in support of that demand.

I avail myself of this occasion to renew to you the assurance of my distinguished consideration.

JOHN FORSYTH.

Mr. FILLMORE moved that the Message, with the accompanying documents, be referred to the Committee on Foreign Relations, and that five thousand extra copies be printed.

Mr. F., before he resumed his seat, wished to make a few observations in relation to the communication from the Minister of Great Britain, and in regard to the facts as stated by that functionary in connection with the outrage upon the steamboat Caroline.

That boat, said Mr. F. as I am informed on good authority, belonged to a man in the city of Buffalo, named William Wells, who was, and is now, considered a very peaceable and respectable citizen of that city. The boat did not belong to the "Patriots," or the insurgents of Canada, nor was it in any way whatever under their control or authority. This being the case, he could not conceive why the appellation bestowed upon it by the Minister of Great Britain could have been given. There was no reason for it. Yet, said Mr. F., he has thought proper to call the boat a piratical vessel, in the employ of those persons denominated Canadian Patriots.

Mr. F. then proceeded to state what he maintained were the real facts in relation to the burning of the Caroline, which were as follows:

Mr. Wells, at the time the insurgents were in the occupation of Navy Island, in Niagara River, on the Canadian side, was then in the city of Buffalo, twenty miles above. He there applied to the custom-house authorities for permission to run a boat, as a ferry boat, from Schlosser across to Navy Island. Permission being given, the Caroline commenced running, simply as a ferry boat, being totally unarmed, and having no connection with the insurgents. Neither did the boat carry any arms or munitions of war of any kind to those on Navy Island, but was engaged merely in the carrying of passengers. After making several trips, the boat was at night safely moored and secured within the wharf on the American side—not within the "nominal" territory of the United States, but within the *undoubted* territory of this Government; as much so, said Mr. F., as this hall, in which we are now assembled, is in the territory of the United States. After being thus safely moored at the wharf in our territory, it was left in the charge of a watch, unarmed, and without any arms whatever being on board, except a single pocket pistol, not loaded. Well, while the boat was thus lying within our territory, it was attacked in the night by an armed force from Canada, sent, as it now appears, by the authority of her Majesty. One man was murdered, others injured, the boat then set on fire, turned adrift, and sent over the falls. This was the "arson" complained of; this was the "murder" complained of. One of our citizens was attacked, unarmed, and had his brains knocked out; and there was every reason to believe that others were killed, or so injured as to be unable to leave the vessel before it went over the falls.

Now, by the laws of the State of New York, said Mr. F., this was murder, and nothing less than murder; and the perpetrators, on being apprehended, would be tried by the laws of that State for the crime. It was a matter pertaining to the State; and neither this Government, nor the Executive of the Government, could have any control over it, unless, indeed, the Government of Great Britain should see fit to repeal its present law, and, entering into treaty stipulations, make laws which should be truly applicable to the case. If so, Mr. F. was understood to say, the matter might perhaps be compromised. But, apart from that, if the same spirit was manifested by the powers at home as was exhibited by the British Minister here in relation to this matter, he (Mr. F.) conceived that the necessary consequences of the conviction of McLeod would be serious indeed.

Mr. F. said he had no doubt but that McLeod would be put upon his trial, when he sincerely hoped he would be found innocent. But if he should be found guilty, he had no doubt but that he would be executed, unless, indeed, a

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General Prospective Pre-emption Law.

[JANUARY, 1841.]

force much larger than common should be brought from the Canada side to his rescue.

Mr. F. concluded by showing that his reason for making these remarks was to show that there was a false impression entertained by Mr. Fox in regard to the facts of the case.

Mr. UNDERWOOD did not rise for the purpose of objecting to a reference of the Message and documents to the Committee on Foreign Affairs, but to object to the printing of the five thousand extra copies. He was in favor of a reference to the committee, because the principles involved in the communications between Messrs. Fox and Forsyth, were, to his mind, very great and important. He wished the Committee on Foreign Affairs to make a report on those great principles, giving an exposition of them, which might be printed, and go forth to the American people, as showing the rule by which we intended to abide. When such a report should be made, then the gentleman from New York might print as many extra copies as he chose.

What are those principles? asked Mr. U. Why, it is averred by the British Minister, that in a time of profound peace, an officer of another country, by the order of his Government, may commit an outrage within our territory, and destroy the lives of our citizens, and yet he is not amenable to our laws for murder. This was asserted on the principle of international law; and if we so considered it, we must necessarily bring it within the case laid down by the British Minister. But to do that, it was necessary that the order should come from the supreme executive authority of Great Britain to justify the act. But had we seen any order to that effect? So far as he was informed, no such order had been given. On the contrary, the gentleman from Massachusetts (Mr. CUSHING) observed, a few days ago, that Lord Palmerston has observed silence to this day on the subject. This being the case, we had no right to take it for granted that the order for the outrage in question had come from the supreme executive authority of Great Britain.

He, Mr. U., was inclined to think, that if any inferior officer of the army or navy, in the service of Great Britain, should, without instruction from the supreme executive authority, perpetrate such outrages, he would, in every sense of the word, be a murderer. He asked the Committee on Foreign Affairs to turn their attention to this point, and to give an exposition of international law, which ought to be spread before the American people for examination, with a view to this or any other altercation which might occur between us and that nation.

Besides this, there were other questions involved in these papers. There was the question as to the right of jurisdiction between the States and the General Government, in relation to matters of this kind. On this point he would be glad to have the Committee on Foreign Affairs direct their attention.

This transaction had occurred at a time when

there were no treaty stipulations between us and Great Britain providing for such an occurrence. Now, as this was a past affair, occurring when no treaty stipulations did exist, he was not prepared to say that treaty stipulations could now have an *ex post facto* operation, to draw it from the jurisdiction of the State of New York to that of the General Government, and thereby prevent the authority of that State from punishing the murderer.

Mr. U. was inclined to deny that the Constitution of the United States would justify a treaty made subsequent to the fact, so as to take away the State jurisdiction. But whatever might grow out of this matter, he thought it highly necessary that we should take a firm and decided stand. It would not be proper for us to bully or to threaten Great Britain, but neither would it be proper for us to tamely submit to aggression. And if the conflict did come, he, for one, would be for owning the mouths of all streams whose source was in our territory.

The question then being put on the motion to refer, was decided in the affirmative. So the Message, with the documents, were referred to the Committee on Foreign Affairs.

IN SENATE.

TUESDAY, JANUARY 5.

*General Prospective Pre-emption Law.*

Mr. CLAY, of Alabama, offered the following amendment, which was agreed to:

*And be it further enacted*, That, prior to any entries being made under the privileges given by this act, proof of the settlement and improvement required by its provisions shall be made to the satisfaction of the register and receiver of the land district in which such lands may lie, agreeably to the rules which may be prescribed by the Commissioner of the General Land Office for that purpose; which register and receiver shall, each, be entitled to receive fifty cents for his services therein; and all assignments or transfers of the right of pre-emption given by this act, prior to the issuance of patents, shall be null and void.

Mr. TAPPAN proposed to amend the bill, by an amendment which declared that the settler should be entitled to the benefits of the pre-emption right only once, which was agreed to.

Mr. ORTENDEN said he had an amendment to propose, as a proviso, to the last clause, as follows:

*"Provided*, That no person, being an alien, shall be entitled to any privilege or right of settlement or pre-emption granted by this act, except only such as shall previously have made, in due form of law, the declaration of intention, required by the naturalization laws of the United States, to become a citizen of the said United States.

*"And provided further*, That no person shall take any right or benefit under this act, who shall not make oath before some proper officer authorized to administer oaths, that his whole estate was not, at

the time of his settlement, worth as much as five hundred dollars."

He said he had supposed yesterday, when the Senate decided that aliens should be admitted, that the Senate proceeded on the supposition that foreigners settling on our public lands, of course intended to become citizens; but it appeared to him it might still be proper to require of them some legal evidence of that intention. He did not see what possible objection there could be to this.

Mr. ANDERSON. There is no objection to the first part of the resolution.

Mr. CRITTENDEN. If, indeed, they were going to legislate on the plan proposed yesterday by the honorable Senator from Pennsylvania, (Mr. BUCHANAN,) and were not only to welcome all foreigners, but in our expansive philanthropy to grant them privileges, refused to our own native born citizens, then, to be sure, there would be no necessity of such a proviso as he had proposed; but if Congress legislated on any thing like a principle of nationality, if it proposed to recognize any distinction between foreigners and natives; then surely the amendment was proper and reasonable. Else, what was there to prevent foreigners actually to form *colonies* in the midst of our country? to avail themselves of all the benefits extended by our laws, without the least thought or intention of ever assuming the responsibilities of American citizens? There were already many foreigners of this description in our country; there were many merchants in our great cities who were ever ready and on the alert to grasp at every privilege our legislation would permit to them, but who were not citizens with us, and never intended to be. Before he would grant to a foreigner the privilege provided by this bill, he would record evidence of the man's intention to become naturalized. Was this too much to require? The Senate had been told that to all those who fled from oppression in the old world we were to grant—what? Our own lands? That was the amount of it. But this was what he was not prepared to do. It had been urged that we were under obligation to do this to foreigners, because they presented their breasts as a bulwark to guard us against the savage foe upon our frontier. When, and where, had we made foreign breasts the bulwark of our safety? What! and was it come to this, that our citizens had to rely on the breasts of foreigners for their protection? No, no, no. Things had not come to that pass. The American people were not yet reduced so low as to be forced to offer mercenary rewards to strangers and foreigners to expose their bosoms as a rampart to defend us—against whom? Not against a world in arms would he seek such a bulwark for protection, much less against a horde of naked savages. This might do to be used in argument; it made a very pretty figure in a speech; but he could not think that gentlemen were quite in earnest when they urged such a consideration as that on the Senate. No, no; we wanted

no such equivalent for our lands; what we chose to grant we would grant freely, and not encumber it with a condition of defending us against the Indians on our border. All he would require was a simple pledge of intention to become one of ourselves; to share the rights and responsibilities of American citizens. Could less be asked than this?

As to the second branch of the amendment, viz: the requirement of an oath that the estate of the applicant for a pre-emption did not exceed \$500—what objection could there be to it? The authors of the bill had thrown the "log-cabin" feature into it expressly to show, as he supposed, that the bill was to be enacted for the benefit of the poor man. He wanted it to be so in fact and in truth. He did not want a law to make rich men richer, but to furnish a home to the industrious man who wanted to live and to work. It was important that there should be some limitation to the operation of the bill; otherwise, under the pretext of giving a home to the poor and laboring man, the law would operate in fact for the benefit of the grasping land speculator. By a curious coincidence enough, it had happened yesterday, that while the gentleman from Alabama (Mr. CLAY) was advocating and urging the bill upon the Senate, he (Mr. CRITTENDEN) received a letter from an old friend and constituent, inquiring with evident anxiety whether there was not a great pre-emption bill to pass this session; the letter stated that throughout that country there was a great movement among the people; men of substance were quitting good houses and settlements, and removing, with the hope of getting richer, on to new lands. This was under the idea that now, as heretofore, the pre-emption law would require actual residence and settlement. The writer added that he made the inquiry more particularly, because there lay near his present residence a piece of very good land, and if he was sure such a bill was to pass, he would at once break up and remove to this new tract. The letter stated that the removals were very numerous—in fact, that there seemed a general movement through all that part of the country. Not only log-cabins of the best description, but in some cases good brick houses, were abandoned, that their owners might avail themselves of the expected pre-emption law to enrich themselves and their children. Now it never, surely, could be the intention of the Senate to grant pre-emptions to men of this description; and if not, the bill ought to be limited and guarded, in order that it might effectually exclude those who waited for such a law, that they might use it as an engine to increase their wealth.

Mr. TAPPAN said if the amendment of the Senator from Kentucky failed, he should propose an amendment to remedy the evil by preventing the acquisition of a pre-emption right, by any person who should be the owner of any land, and should quit it to live on the public lands.

Mr. BUCHANAN could not have supposed that the few incidental remarks which he had made on the question which was yesterday decided by the Senate, would have brought out the Senator from Kentucky, (Mr. CRITTENDEN,) or any other Senator, in reply to-day. He had no right, however, to complain of this, and was only sorry that he (Mr. B.) was now compelled, in self defence, to make a few observations in reply to his remarks. It had been his purpose not to utter a single word on the general subject of pre-emptions, which had been so often discussed by him before; but to content himself by merely giving his silent vote in favor of the bill.

Mr. B. should neither vote for the first, nor the second clause of the Senator's amendment. He went against the whole and each of its parts. In relation to the first clause, he held that the foreigner who penetrated to the Western frontier of our vast country, and there settled upon, and cultivated a tract of land, presented the clearest proof, and that by the most decisive actions, of his intention to become a citizen of the United States. How can it be contended that this was no proof of such an intention? The whole conduct of such a man manifested that he was determined to live and to die by the soil. In what other manner could he give stronger proof of his devotion to our institutions, than to have transferred his home from his native country to the far West, and there to have felled the forest and erected a dwelling, (he would not say a log-cabin, for he had no reason to be remarkably partial to that name,) for himself and his family? He thus acquired, not the title to the tract of land which he had selected, but merely the right to purchase and pay for it at the Government price, in preference to all other persons. If he should prove unable to do this, his labor was all forfeited. Mr. B. could assure the Senator, that from such aliens as these, he need apprehend no danger of foreign influence. These pioneer farmers were not the men from whom we had any thing to dread. He should never consent to destroy the title of such a man, after he had paid for his land, and thus to render all his toils and privations unavailing, merely because through negligence he might not have gone to a court of justice, and made a formal declaration of his intention to become a citizen of the United States, before his actual settlement commenced. No, never! His judgment and his feelings would equally revolt against such an act.

He (Mr. B.) could not understand the opposition which had been manifested in certain quarters to foreigners, who had sought a refuge and a home in our country. Had they not materially assisted in achieving our independence? In the days of the Revolution no such jealousy was felt towards the brave Irishmen, Frenchmen, and Germans, who, side by side with our native citizens, had fought the battles of liberty. On the contrary, he had no doubt it was from a grateful sense of these services, that it had

ever been the settled policy of the Government to allow them to purchase our vacant lands upon the same terms with American citizens.

Was there no reason for pursuing the same policy at the present day? Was it not clearly our interest as a nation to permit such emigrants to purchase, and possess our vacant lands, and thus establish a line of defence on our frontier against the incursions of the savage enemy? This was a wise policy, which he trusted might never be abandoned.

But the Senator (Mr. CRITTENDEN) made light of the danger from the hordes of savages, which, wisely or unwisely, had been collected on our Western frontier; and he thought it was degrading to American citizens to be protected and defended by any foreigner not yet naturalized.

Mr. B. believed that the danger was one which might well be apprehended, even by the bravest men. Some twenty or thirty thousand Indian warriors, he did not recollect the number exactly, now occupied the country along the Western line of the States of Missouri, Arkansas, and Louisiana. There they were, and there they must remain, or the national faith must be violated. They had been almost literally driven to that frontier from their native homes in the interior of the States, with all the hostile feelings and wounded pride which our conduct towards them naturally inspired. At any time, at all times, there was danger of a united war being waged by these savages against our frontier settlements. We all know that it is the nature of the Indian to brood over his vengeance, and to strike the most dreadful blow when his enemy least expects it. Was it not then clearly the policy of the Government to increase the number of inhabitants on that frontier? And if an Irish, a German, or a French emigrant thought proper to settle there, was he (Mr. B.) to be censured for having declared that their bosoms would become bulwarks against the incursions of our savage enemy? These brave men would always be ready to die in defence of those possessions which this Government had permitted them first to improve and then to purchase.

But the Senator thought it would be degrading to Americans to resort to such a defence. Mr. B. well knew that "the blood of Douglas could protect itself." He knew that our own citizens could defend their country; but how they could be degraded by fighting in the same ranks with foreigners, as our Revolutionary forefathers had done, he was utterly at a loss to conceive. This was a species of exalted pride which he could not understand. And this, too, when these foreigners, united with our own citizens, were defending their common possessions and their homes. It was certain that such men would become citizens as soon as they could under our naturalization laws; but if any of them, either ignorantly or from negligence, had omitted to make a formal declaration of their intention to this effect, he

would never deprive them of their privilege of pre-emption, and drive them from their homes for this reason. He could not, therefore, give his support to the first clause of the Senator's amendment. On the second clause of the amendment, he should say nothing, as he did not deem it necessary, and would not, therefore, protract the debate, into which he had entered with much reluctance.

Mr. CRITTENDEN would offer but a few words in reply, rather to what the Senator had insinuated, than to what he had actually said. The gentleman seemed greatly surprised that there should be manifested in certain quarters so great a hostility to foreigners. He did not really understand what the Senator meant. He had not said one word derogatory to foreigners; he had neither said nor insinuated any thing like it. It was his idea, that the constitution, by the liberality of its provisions, offered an asylum and protection to the oppressed of all countries; but it was reversing the whole matter, and changing our entire attitude, when we offered to grant them a pre-emption title to land among us, that they might come and be our bulwark against the Indians. Such a position was against our national pride; it was degrading to tell all the world that we would grant them privileges in the hope that they would present their breasts as a bulwark to defend us from danger. Was this the language for Americans? Not that it was degrading to us that foreigners should mingle with our own people in defending the country from a common enemy—not at all, there was nothing degrading in it. But he would not hold this out as a motive to invite them to our shores. He would not offer them land for being our rampart against our foes. He entertained no spirit of hostility toward them; far from it: but he made a distinction between them and our own home-born American citizens. Did the Senator hold them both alike? Did he feel no greater affection, did he acknowledge no greater obligation to our own citizens than to foreigners? If not, why had we passed naturalization laws? Did they recognize no difference between the two? Was it not the policy of every Government and every nation upon earth to draw such a distinction?

But it was said by the Senator, that actual settlement on the public lands was better evidence of an intention to become an American citizen, than any forms prescribed by our naturalization laws; if so, would it not be better at once to repeal all our present laws touching naturalization, and substitute this "better evidence?" Would the gentleman from Pennsylvania think it good policy to declare that if any foreigner would go upon our public lands, and go to work cutting down trees, he should forthwith be declared an American citizen? He (Mr. CRITTENDEN) supposed he would hardly advance such a position. It was particularly surprising to him, that there should be in certain quarters such extreme sensitiveness and

such a strong dread of interference in our concerns by foreigners who held a petty interest in some petty bank among us, when, at the same time, there was nothing at all of that feeling at the idea of granting landed privileges in our country to foreigners who would not even express an intention to become American citizens. If a foreigner, an alien, could, with his foreign character never cast off, and without recording an intention to become naturalized, obtain privileges not granted to our own native born citizens, did this involve no danger of foreign influence? It seemed not. The gentleman could view this with perfect composure; but let a foreigner, residing far from our limits, hold a share in one of our banks, and it excited at once a mighty alarm! Now, he did not hold that the privilege proposed to be conferred by this bill, if extended even to foreigners, would present any just cause of alarm; but he was opposed to it on principle. The soil of the United States belonged to the citizens of the United States. Did it not? It was their own property out and out. The right of holding it had been conferred upon citizens, native and naturalized, but it was no part of our policy to grant the same right to foreigners, and especially to such as refused even to declare that it was their intention ever to become naturalized amongst us. All I require is the legal evidence that the man intends to become an American citizen. Let him give me this, and I am willing at once to instate him in all the privileges we ourselves enjoy. This surely is as little as we can do in justice to our own citizens.

Mr. BUCHANAN would say a few words in reply. The Senator from Kentucky is a good logician, and, unless he were closely watched, would get the better of his antagonist even in a bad cause. His sophistry upon the present occasion consists in attempting to infer from my argument, that I was in favor of substituting an actual settlement upon a tract of the public land for the declaration of intention required from every foreigner before he can become an American citizen. It would be very easy for the Senator to triumph, if he were permitted to substitute his own forced inference, for my express declaration to the contrary. With this view, he triumphantly asks if I would be willing to change our naturalization laws by rendering a residence on our vacant lands equivalent to the declaration of intention which these laws require? Now, I ask him in return, have I ever said that I would? Have I ever intimated any such intention? On the contrary, have I not expressly declared, that I would not grant to any foreigner the elective franchise until he had become a naturalized citizen under our laws? Whilst I should not, with the Senator from Kentucky, deny to the foreigner the right of the pre-emption which he has fairly acquired by the dangers and privations encountered in making a settlement on your remote frontier, I would not, for this reason, confer upon him the high political privileges of an

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American citizen. The Senator's argument, therefore, in this particular, falls to the ground. It has no foundation, in any thing which I said, to rest upon. The right of pre-emption is one thing; but the high privilege of becoming an American citizen is another and entirely different matter.

And what, after all, is this great privilege of pre-emption? To what does it amount? What is its intrinsic value? It is merely a contest between the speculator and the actual settler, as to whether the former shall be permitted to purchase the spots of land improved and rendered valuable by the toil of the latter. Our experience has demonstrated that the average excess of the price of the public lands advertised and sold at public sale, in pursuance of the President's proclamation, is not more than two or three cents per acre above the fixed price of the Government at private sale.

What, then, is the privilege granted to the settler who goes into the wilderness, clears away the forest, and there establishes his home? Does this bill offer such a man a donation? Not at all. Does it give him the land as a bounty? No such thing. The privilege it confers is that he shall not be driven from his humble home by the speculator. This *mighty* privilege is that he shall pay for his land the price fixed by law, which may be less, by two or three cents per acre, than it would command at public sale; and that after he has paid for it he shall hold it. And why, at this late day, for the first time in your history, should you make an odious distinction, in this small matter, between the settler, who had drawn his first breath on the other side of the Atlantic, and the American citizen? No such distinction had ever existed heretofore, and no complaint had ever been uttered by those directly interested, that this trifling privilege had been conferred upon foreigners. If the Senator had carefully read the history of his country—I mean on this particular point—I myself have not, but the fact has been furnished to me by one who has—what would he have found in relation to these now despised foreigners?

[Here Mr. CRITTENDEN denied that he had spoken of them as "despised foreigners."]

Mr. BUCHANAN said I know he has not; but if he had understood the honorable Senator correctly, he had spoken with indignation against using the bodies of foreigners as a barrier on our frontiers against the incursions of the savage foe, and considered it a degradation to our own citizens to invoke the aid of such defenders. If the Senator had read the history of his country, he would have found that the Revolutionary Congress, "in the time that tried men's souls," had invited those foreigners to enlist under our banners, and had offered them not a mere pre-emption right, but a bounty in lands, with the privilege of at once becoming American citizens. Here Mr. B. read the acts of Congress of August 14th, and August 27th, 1776, from the first volume and first page of the land laws.

These acts manifested the estimation in which foreigners, who were willing to fight in the cause of independence, were at that day held by the Revolutionary Congress. He could not be mistaken in believing that it was far different from the estimate now placed upon them by the Senator from Kentucky. Now, said Mr. B., I desire to make no political capital out of any question of this nature. I wish only to act towards those foreigners who may have settled, or shall settle upon our public lands, upon the principles of eternal and immutable justice. Nothing more. From the beginning it has been our policy to permit foreigners to purchase and settle upon the public lands, and I shall not now, for the first time, establish an odious distinction against them, in a pre-emption bill. I will not now, at this late day, repeal the established policy of the country, but in this particular shall pursue the system adopted by the wisdom of our predecessors.

Mr. CRITTENDEN said of course it must be natural for him to desire to escape as soon as he could from any contest with the Senator from Pennsylvania; it was one in which, of course, he could hope to gain but little. Yet he did not admit it to have been such very bad logic, that he should have imputed to him the sentiment of preferring a settlement on the public lands to a written declaration before a magistrate as a test on the part of a foreigner of an intention to become an American citizen. True, it was not said in terms that he proposed so to alter the law, but the Senator certainly did insist that the one act afforded better evidence than the other; and if so, why not substitute the one for the other? The Senator would not, of course, oppose the obtaining of the best evidence; and as he esteemed the cutting down of some trees on the public lands, and the erection of a log-cabin, that thereby a pre-emption right might be obtained, as better evidence of Americanism than all the forms which our naturalization could furnish, why should not the weaker evidence be dispensed with, and the stronger established? That the difference between the Senator and himself was simply this: the Senator was willing to put the foreigner who made no declaration of a purpose to be naturalized on the same footing with one who did—on the same footing with one who had actually become naturalized, and even with the native-born citizen. He (Mr. CRITTENDEN) did not. He was ready to give to a foreigner who should become a citizen, according to law, all the rights and immunities of one born in the land. He would allow to one who signified his intention to become such, greater consideration than to one who had not. The Senator was for giving every thing to a foreigner who had made no such declaration. He knew that in time of war we did employ foreigners in our armies; nor was there in this the least degradation. He was willing they should mingle with us in battle, but he was not willing to invite them here that they might protect us. Oh, no: this



was not the bulwark on which he would rely for protection. We had other and stronger defence to rely on; and not until we were reduced to the last extremity, would he consent to tell the world that we looked to foreign aid as the bulwark of our safety. The Senator was of opinion that our protection against foreigners getting possession of the country beyond the Rocky Mountains was the unextinguished Indian title. Would the honorable gentleman tell him that all that country was actually under the Indian title? He was not aware that such was the fact; he had not till now supposed that those regions were covered by even the vaguest Indian title. We had heard of some entire tribes being exterminated by disease and other causes, and certainly the whole country was not occupied by Indians. The gentleman, however, imagined Indians to be our bulwark against foreigners, and in the same breath was for granting to foreigners the right of pre-emption.

The question, and the only question at present to be decided was, whether we would put the foreigner, who made no declaration of his intention to become an American citizen, on the same footing with our own citizens. He required some evidence, and he asked for only the smallest modicum of evidence of the man's intention to become an American citizen. Give him but this preliminary requisite, and he was willing at once to include that man in all the benefits of the bill.

Mr. BUCHANAN said the Senator from Kentucky should not transfer this battle to the west of the Rocky Mountains. With his good leave we shall keep for the present on this side of them. The present contest was on the Indian frontier, and regarded the rights which foreigners ought to acquire by settling and cultivating lands within the limits of our existing States and Territories, and not beyond the Rocky Mountains. And now, after all this discussion, what was the difference between the honorable Senator and himself? Why, sir, he has come more than half round. He has now become a good pre-emption man, and is in favor of granting the right of pre-emption to all foreigners, provided they have declared their intention to become citizens. But suppose the case of a poor ignorant foreigner, not acquainted with the laws of his adopted country, who has gone upon your public land, cleared away the forest and erected a home for his wife and his children—I ask, would you deprive such a man of all the benefits of this bill, merely because he had omitted to make a formal declaration of his intention to become a citizen? I ask the Senator to say whether such a man, for such a cause, should forfeit his right to become the purchaser of this tract of land in preference to any hungry land shark who was ready to pounce upon it as his prey? The question between us has been narrowed down to this point at last. Now I appeal to that gentleman's own heart to say whether he would not decide it in favor of the

foreigner. I know and feel that he would. He can entertain no serious purpose that such a settler should forfeit his right. I am sure he does not. And what, then, is all the mighty difference between us? After all our replies, and rejoinders, and surrejoinders, the whole argument dwindles down to a mere question of tweedledum and tweedledee. Can the Senator make more of it? He is willing to place the foreigner upon the same footing with our own citizens, and grant him every right of pre-emption which they enjoy, provided he has gone through the form of placing upon record the declaration of intention required by our naturalization laws. I go one little step further, and hold that the foreigner, by making his way to the far West, and settling upon the public land, manifests, by actions which speak louder than words, even a stronger intention of becoming an American citizen, than if he had merely made the formal declaration required; and in such a case, I ask, should he forfeit his privilege on account of this omission? Sure I am that if the honorable Senator from Kentucky were constituted the judge, and this question were left to his decision, he would answer, emphatically, no! He would never decide that the foreigner who has settled on the public land since June, 1840, upon the faith of your past legislation, or who shall settle upon it hereafter, shall forfeit his privilege of pre-emption, and be driven with his wife and children from their home.

The Senator has done me injustice in another respect. I never either said or insinuated that I would proclaim to the world that we wanted foreigners to come and settle amongst us, that they might protect us from danger. What I did say was, that it had long been the national policy, and one which I considered sound and wise, to encourage the settlement of our frontier as speedily and as densely as possible; and if this should be done in part by foreigners, then, in the hour of danger, their bodies would be our bulwark against a savage foe, just as surely as the breasts of our own citizens. I cannot vote for his amendment, because I am unwilling that an ignorant man, who may have acquired an equitable title to a pre-emption, shall forfeit it for want of having gone through a legal form.

Mr. CRITTENDEN. Yesterday I was in favor of confining the benefits of this bill to American citizens. The Senate have voted to extend them to foreigners. I now move an amendment requiring a simple declaration of an intent to be naturalized. The Senator opposes it, and is for putting those who have no legal or legitimate claim to this benefit at our hands on the same footing with our own citizens, and he says the difference between us is a mere matter of tweedledum and tweedledee. The Senator thinks it hard to make a distinction against one foreigner merely because he has omitted to make any declaration of his purpose to become a citizen. Why not agree at once that it is a shame to

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make a difference between a foreigner and our own citizen simply because he has happened to be born in another country, and under different allegiance—a matter over which he had no sort of control? The difference between such a man and a native American is, in the Senator's estimation, a mere matter of tweedledum and tweedledee. Yet this is the gentleman who is so terribly afraid of foreign influence. He is for making no difference between an Englishman, a Russian, a Frenchman, and an American. Now, the honorable Senator may excuse me, while I have all proper respect for foreigners, if I love my own countrymen a little better than them, and if I do make a difference between the foreigner who comes and grasps me by the hand, and solemnly records his declaration to cast in his lot with me, to make my country his country, my Government his Government, and to seek an inheritance in the soil for himself and his children—and the foreigner who is very willing to receive any and all the benefits we may have to bestow, but who refuses to give us the slightest pledge of his desire to become one of ourselves. To the gentleman this may all be tweedledum and tweedledee—to me, I confess, it is matter of strong and high American feeling.

On motion by Mr. CLAY, of Alabama, the question was divided, so as to be put first upon the first part of Mr. CRITTENDEN's amendment.

Mr. PORTER inquired, whether the mover would not modify it so far as to allow a previous declaration made before applying for the pre-emption to be a valid fulfilment of the condition proposed.

Mr. CRITTENDEN assented to the modification proposed by the Senator from Michigan.

Mr. ALLEN said he should vote against the amendment, because such a provision would be utterly useless if incorporated in the bill. The declaration of the intention of an individual to become a citizen, might be made with great truth; the individual might then occupy land, and obtain a title thereto, and then with great sincerity change his intention. He was opposed to all distinctions of this description, and when a foreigner reached our shores he was willing to take the chain from his neck—every link of it.

Mr. WRIGHT said it seemed to him they were making themselves active about a question which should not be entertained by them; and as it appeared to be the intention to take the question to-night, he would state his views respecting it. Now, after what was said yesterday about peculiar and exclusive privileges, he would ask what was the privilege proposed to be conferred by this bill? It was, as he understood it, the privilege to the settler of paying that price for the land he occupied, which the Government had chosen to fix as the minimum price of the public lands; and he made these remarks that he might not be misinterpreted or misunderstood in what he designed further to say upon this subject. Was there, then, rea-

son that they should change all their legislation in reference to the public lands? Had not every foreigner, everywhere, the perfect right to go to our land office to purchase lands? and who would inquire whether he was a citizen, or intended to make himself one? Who would make such an inquiry? Where was the law proposing or authorizing it? Two years ago, he knew such a proposition was made here, but it was rejected. Why should they make such a distinction between the foreigner and the native citizen, in the purchase of the public land? Yesterday, in the course of the debate, he heard an apprehension expressed that they were about to violate the laws of the States, and to force upon them citizens against their institutions; but could they do that? Was it in their power to do it? Suppose they made a grant or sale of land within a State to a foreigner, did it prove that the foreigner could hold or transmit that property to another. In his own State, (New York,) any foreigner could take the title to land, but he could not hold it as against the State; he could not convey it by deed, and he could not transfer it by inheritance. His title was good against all the world but—what? That very sovereign power which, it seemed to him, gentlemen were endeavoring to protect. The United States had yielded to the States all sovereignty over this domain by their admission into the Union, and they only held the title like a private individual, and they had the right to convey in the same manner; but suppose a foreigner should purchase from them, and the law of the State did not enable a foreigner to hold, or transmit, the title; did their patent override the law of the State? No, the foreigner took the title at his peril. If he chose not to become a citizen, what was the consequence? He took title for the benefit of the State. The lands would escheat, if he did not qualify himself to hold and convey. Was it desirable then to the States, that we should prohibit such purchasers? So long as the title remained in the General Government, the power of the State in which it lay did not reach it; but the moment it was conveyed to any foreigner, or to anybody—to an infant, a *femme couverte*, or anybody else, there was an end of the Federal power, and the question of title was with the State. And were they called upon to say who should or who should not purchase? The States have established their own institutions to please themselves, and should the Congress attempt to interfere? Was there a State in the Union in which a foreigner cannot take the title to land? If there were, he knew it not—he never heard of such an instance. In England a foreigner can take the title to land, but as far as the Government is concerned, he takes for its benefit, if it chooses to interfere. It was not a question, then, so far as Congress was concerned, who shall hold and convey land; but the question with which they had to do was, who shall be permitted to take the title? It was for the benefit of the Treasury they sold

the land, and when it was sold it fell within the power and jurisdiction, and was subject to the taxation, of the State in which it was situated. If the State choose to say that a foreigner may hold and convey, would they arrest that regulation? And if the State should choose to say a foreigner shall not hold and convey real estate within it, they could not say he shall. The moment the title was transferred to a foreigner, it was in the State, if the State choose to avail itself of its technical right. Were they not, then, agitating a question which did not belong to their legislation, and with which properly they had no concern? An intimation was thrown out yesterday, that, to make a foreigner a freeholder, was, in substance and effect, to make him a voter. Had they power over that? He thought they had not. He believed it was in the power of every State in this Union to prescribe the qualifications of its own voters, and even to permit that man to vote, if its people choose, who is not a citizen of the United States; and he knew of no power in the Congress of the United States to control the State in the matter. He remembered well the occasion when he examined this subject—the admission of Michigan into the Union—and he sought in vain for any authority in any branch of this Government to prescribe who shall or who shall not vote in the States. He was sure it would not be found in the constitution, and he denied the existence of any such power; and so he denied any authority in the Congress of the United States to determine who shall hold, convey, or transmit the title to real estate within the States. It was enough, then, that they offered the land in the market, and to any person who would pay the money and take the patent, and when it was sold it was subject to the State institutions. These had been his views since the commencement of the debate; and, with them, he should vote against the amendment then under consideration.

Mr. BUCHANAN said he should like to understand how the amendment stood; for, as he understood it, the Senator from Kentucky, (Mr. CRITTENDEN,) by accepting the proposition of the Senator from Michigan, (Mr. PORTER,) had substantially yielded the point in discussion between them.

Mr. CRITTENDEN then said he would prefer taking the question on the amendment as he had originally presented it.

Mr. PORTER said he should vote for this amendment, because he was anxious to hold out to foreigners the additional inducement it would present to them to become citizens of the United States. The declaration of such intention was, in many cases inadvertently, but in few designedly, omitted. It surely was the policy of this Government not only to encourage, but to stimulate these people, by every laudable inducement, to change their allegiance and become what every free white man in the country ought to be—an elector. He did not desire to see the soil of Michigan in the permanent

possession of foreign subjects, averse to taking on themselves the duties and obligations, and to enjoying the political immunities and privileges of American citizens. He desired to see them become *Americans*, and when they were so in virtue of the naturalization laws, he would be as ready to welcome them to all the rights appertaining to them as such, as if they had drawn their first breath among us. The disabilities of foreigners in relation to real estate, alluded to by the Senator from New York (Mr. WRIGHT) as existing in that State, did not obtain in Michigan. Foreigners there could take and hold land free from all restraints on the power of alienation, either by deed or by devise; and in cases of intestacy, it descended according to general laws. It was only the political disabilities of having no voice in elections, and of ineligibility to office, under which aliens in Michigan labored. Those disabilities he wished to see removed; and because such was his desire, he should offer the inducement presented by this resolution, so far as his vote in its favor would go.

He then asked the permission of the Senate to make a short explanation of the vote he gave yesterday on the amendment offered by the honorable Senator from North Carolina, (Mr. MANGUM,) which confined the pre-emption right to "free white persons." He asked it on account of his peculiarly delicate position, he being the only Senator who gave a negative vote, and because of the unusual precipitation with which the question was disposed of.

By his vote on this amendment, he was called on to decide, as a Michigan Senator, whether this distinction ought to be recognized. It would be observed that this was the first instance in which it had ever been made in the framing of a pre-emption law. Not one of the previous acts contained it, and the question might, therefore, well be asked why it should now be established. But there was not found his objection to this amendment. He was admonished by the tone and character of the civil institutions of the State he represented, not to sanction it. The black man has there no political power, except for enumeration as the basis of representation. He cannot, by any accumulation of property, however great in amount, become an elector, or hold an office. But here all his disabilities end. He enjoys all the civil rights conferred by our constitution and laws on the white man, without restriction or limitation. He may take and hold, as he does take and hold, real and personal estate. He may convey and sell it, and direct its descent by will and testament; and if he dies intestate, it descends according to the laws in force regulating dower, inheritance, and the rights of creditors of deceased persons. In short, the color of the skin is no passport to an exclusive enjoyment of personal liberty or the rights of property. The right proposed to be conferred by this pre-emption bill, being strictly a civil one, and as no political power can be incident

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to its enjoyment by the black, he might well have hesitated to be the first to create a distinction, and the only one, as to color, in the facilities for the acquisition of property, afforded alike to all by the framers of our State constitutions.

He could well imagine that this question was liable to be viewed in different lights by the representatives of different States. He was wholly unacquainted with the domestic details which regulate the institution of slavery at the South, but he took it for granted that a slave cannot hold lands. It would be a strange anomaly if he could.

[Mr. MANGUM here remarked, "No. certainly he cannot."]

The absence of this amendment, then, would be wholly inoperative as to him, and he could not, therefore, be suspected of a wish to connect this bill with that subject to the injury of Southern rights or Southern feelings, voting, as he wished it to be understood it was his design to vote, in accordance with what he believed to be the spirit of Michigan institutions. Indeed, he could not feel at liberty to vote otherwise.

The question was now put on the first branch of Mr. CRITTENDEN's amendment, and decided, by yeas and nays, as follows:

YEAS.—Messrs. Clay of Kentucky, Clayton, Crittenden, Graham, Huntington, Knight, Mangum, Merrick, Phelps, Porter, Prentiss, Preston, Ruggles, and Smith of Indiana—14.

NAYS.—Messrs. Allen, Anderson, Benton, Buchanan, Calhoun, Clay of Alabama, Fulton, Henderson, Hubbard, King, Linn, Lumpkin, Mouton, Nicholas, Norvell, Pierce, Roane, Robinson, Sevier, Smith of Connecticut, Sturgeon, Tallmadge, Tappan, Walker, Wall, White, Williams, Wright, and Young—29.

The question then recurring on the second branch of the amendment, viz., that requiring a declaration from the applicant that his whole property was not worth over \$500—

Mr. BENTON expressed his hope that Mr. CRITTENDEN would not insist upon this, but would accept, in lieu of it, the amendment which had been read by Mr. TAPPAN.

Mr. CRITTENDEN declined doing so, as he did not consider the latter at all covering the same ground.

Mr. TAPPAN then formally moved his amendment, which was to add to the first section a proviso, in the following terms:

"Provided further, That no person being the owner of land in any State or Territory, who shall quit or abandon his residence on his own land, to reside on public land in the same State or Territory, shall acquire any right of pre-emption under this act."

Mr. CLAY, of Alabama, hoped the friends of the settler would vote against both propositions, on the ground that it was entirely a new feature in the system, and one wholly unnecessary; for who would think of making a speculation on 160 acres of wild land?

The question being taken on the latter branch of Mr. CRITTENDEN's amendment, by yeas and nays, it was rejected, as follows:

YEAS.—Messrs. Clay of Kentucky, Clayton, Crittenden, Graham, Huntington, Knight, Mangum, Merrick, Phelps, Pierce, Prentiss, Preston, Roane, Ruggles—14.

NAYS.—Messrs. Allen, Anderson, Benton, Buchanan, Calhoun, Clay of Alabama, Fulton, Henderson, Hubbard, Linn, Lumpkin, Mouton, Nicholas, Norvell, Porter, Robinson, Sevier, Smith of Connecticut, Smith of Indiana, Sturgeon, Tallmadge, Tappan, Walker, White, Wright, and Young—26.

And then the Senate adjourned.

FRIDAY, January 8:

Oregon Territory.

Mr. LINN, in pursuance of previous notice, asked leave to introduce a joint resolution to authorize the adoption of measures for the occupation and settlement of the Territory of Oregon, and for extending certain portions of the laws of the United States over the same.

Mr. LINN said that when this bill was up at the last session for discussion, both his political friends and opponents pressed him to forbear urging it during the negotiations with the British Government, for the adjustment of another question, from a fear of embarrassing its settlement. This was not at the time convincing to him, but it was sufficient for him that it was the advice of gentlemen of experience, and he had acted in accordance with it. His opinion was that it would be better to put the whole of their claims on Great Britain together, and see what would be done with them; but he never expected that they would be amicably adjusted. The history of the British Government afforded him satisfactory evidence on this subject. He believed that every one there would be numbered with the dead before the British Government would amicably settle a question of this nature. If his memory served correctly, England, pending the negotiations at Ghent, had been willing to purchase that territory; he did not mean to say there was any formal offer made, but, finding that no such arrangement could be entered into, she had, step by step, made progress in territorial encroachment, until she presented to the world a claim of great importance where she had not even the shadow of right, and such would be the case at every point of the contest with Great Britain. The British had extended their possessions, step by step, from the extreme branch of Columbia River to the Pacific Ocean. By a letter which he had recently received, he learned that the Hudson Bay Company was introducing emigrants from Great Britain by Cape Horn; they brought shepherds and placed them on farms; they had erected British forts on the Territory of Oregon, and had pushed their establishments

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on the south to California, and on the east to the Rocky Mountains; and by an act of Parliament, a portion of the criminal law of Great Britain was extended up to the very confines of the States of Arkansas and Missouri. Now, if we have a just right and claim to that property, he was not the man to say it should be abandoned to any power on earth. He was prepared and willing to go into a discussion of the whole subject here involved. He had been censured by many gentlemen from all parts of the Union for not having pressed this question before, when he delayed it because, on the suggestion of others, he was not willing to introduce a new element pending the question relative to the North-eastern boundary. He would not occupy the time of the body further on this occasion; but should the Senate grant leave for the introduction of the joint resolution, he would embrace the opportunity when it came up for consideration, to submit his views more in detail.

Leave being granted, the joint resolution was introduced, read a first and second time, and referred to a Select Committee of five, consisting of Messrs. LINN, WALKER, PRESTON, PIERCE, and SEVIER.

*Permanent Prospective Pre-emption Law.*

The order of the day being the bill to establish a permanent prospective pre-emption system in favor of settlers on the public lands who shall inhabit and cultivate the same, and raise a log-cabin thereon; and, the question being on the following amendment offered by Mr. PRENTISS, of Vermont, as a substitute for the whole bill:

"Strike out all after the enacting clause, and insert the following: That every actual settler on any of the public lands, to which the Indian title has been extinguished, except such as are hereinafter reserved, being the head of a family, or over twenty-one years of age, who was in possession and a housekeeper, by personal residence thereon, at the time of the passing of this act, and four months next preceding, shall be entitled to a pre-emption in the purchase of the land so settled upon, not exceeding one quarter section at the minimum price now established by law.

Mr. ANDERSON addressed the Senate as follows: Mr. PRESIDENT, the policy of the bill, of which alone I shall speak, without intending to rely, at present, upon its details, has been repeatedly recognized in the legislation of Tennessee, and has again and again received the sanction of Congress in their disposition of the public domain. The people of this country have always sympathized deeply with that hardy, industrious, and enterprising portion of their fellow-citizens, who go from their respective States, to seek a solitary home in the great wilderness of the West.

Sir, I feel the full weight of such considerations pressing upon me, and I cannot repress the abrupt expression of my entire dissent from the views represented by gentlemen on the other side of this House.

I look, too, to this measure as only the programme to some system which must necessarily, in the end, take the antagonist position to the proposition heretofore made, to distribute among the respective States the proceeds of the public lands. Both projects to which I refer must mainly stand or fall upon the same great principles. This, it is true, is not complete in the final disposition of the public land, and does not postpone those vexed questions which must annually arise here; but it is at least a pioneer to some equitable system, which will most surely, in the great movement of things, come sooner or later. That other system to which I allude, should be framed with a careful regard to the various interests involved, and, if practicable, at least possess the merit of a final adjustment of the subject. The present system, however, which is proposed, ought not to alarm the fears of those who look specially to the moneyed concerns of the country in connection with our public domain; for I do not entertain a doubt that it will rather add to, than diminish, the revenues of the Government. That which you will receive, and that which you will save, in the course of fifty years, will advance far beyond the paltry millions which you can cast into the Treasury, by any nursing policy for the benefit of the States respectively. I refer, sir, to the quantity of land you will sell, and to the accumulation of a massive population, upon a vastly extended and exposed frontier, whose presence may either overawe to peace the naturally belligerent savage, or check his bold and bloody incursions.

I consider this measure, therefore, not likely to have any unfavorable financial effect, and as presenting the means of promoting the progress, and providing for the safety of a great nation.

The bill proposes that every white person, being the head of a family, and every white man over the age of eighteen, or widow, who shall make a settlement on any public lands, and who shall inhabit and improve them, and raise a log-cabin or other dwelling thereon, shall be entitled to a pre-emption in the purchase of one hundred and sixty acres of land, at the minimum price of one dollar and twenty-five cents. It was attempted to amend this provision, by adding the condition, that the emigrant who was worth more than five hundred dollars, should not be entitled to the right of pre-emption. A regret was expressed on yesterday that it had failed. Nothing, it seems to me, could be more unjust and invidious than such a condition, and I rejoice that it has failed. It is the enterprise, the industry, and the safety of the emigrant, without distinction of persons, which you seek to protect against the unequal power of the speculator; and whether he is worth one dollar or five thousand, all those considerations apply with undiminished force to him, while he stands there as one more to be added to the living rampart,

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which is thus formed for the defence of the whole country.

But, sir, what is the great policy of this measure? This being settled, for good or for evil, determines of course the proper line of our action. Is it such as we heard it denounced to be on yesterday? It was then denominated a system of "privileges and bounties!"—a system by which our magnificent domain would be exhausted! Sir, what privilege, and what bounty? The privilege of buying land at the minimum price at which you have fixed it! The privilege and bounty of being preferred to the speculator! That privilege and that bounty to the poor and the adventurous, which alone can make your public domain most valuable! The privilege of entering a wilderness seven hundred miles from your seat of Government! A privilege, the natural result, I might say the necessity, of having cast the Indians out of our borders! The privilege of assisting to fill your Treasury! This privilege you confer upon the undismayed adventurer, who goes forth from the land of his birth, and the home of his childhood, from friends and kindred, and who plants towns and cities where you would have to establish a cordon of military posts. Sir, let it be remembered, these privileges and bounties fall from our hand upon the laborer, the farmer, and the pioneer, the great producing classes of the community, like summer showers upon the parched earth! They are rare, but welcome. They are our only tender mercies cast upon them, like "angels' visits, few and far between!" And shall the humble poor look to us in vain? Shall we turn them from our door houseless and homeless, and even forbid them to strike the axe, and rear their cabin in our vast and unoccupied forests? Has so soon a "change come o'er the spirit of the dream?" "but yesterday, and they could have stood against the world; now, none so poor to do them reverence!" Sir, I confess it struck me with peculiar force; it sounded strangely in my ears to hear from the other side of this House—from the party with whom we have so recently contended, this bill which so justly and fairly provides for the poor, the industrious, the enterprising, the great producing classes of the community, denounced most bitterly, as a "bill of privileges and bounties, of rewards and punishments." I repeat, considering the scenes through which we have recently passed, and the quarter from whence this came, I was most profoundly astonished. It carries with it a practical commentary, which no ingenuity can escape, and which requires no eloquence to illustrate or enforce. Sir, how soon has it been forgotten that those very men for whom we are now legislating, belong to that great agricultural mass who pursue the only unprotected occupation in our country? How soon has it been forgotten, that they are the voters and the tax-payers, from whose hands are received all the power, and from

the sweat of whose brows flows all these sweets that luxurious wealth carefully gathers up to cherish and inspire its collapsed excitement, to please its taste, and gratify its pride.

But, sir, this prospective pre-emption, as I have stated, was also denounced as a system of rewards and punishments, applied between the Atlantic and the West. The citizen of the neglected Atlantic was described as being left to pursue his obscure path unknown, and unregarded by the Government, while the man of the far West rioted in the pursuit of the wild game of the prairies, and had superadded to his pleasures the highest legislative rewards. The great landed domain has been held up as that patrimony of the old States of which they have been gradually stripped by a similar legislation, and of which we seem now to be in the attitude of ultimately depriving them, for the benefit of a more favored region. The hamlets, the towns, the cities, the vast spreading population of the West, has been grouped in graphic pictures to impress more strikingly upon our minds how we have built them by our legislation, and fostered them by our patronage. These have been called the rewards of the West. In contrast with this, and over which the sensitive and sympathizing can scarcely refrain a tear, we have the neglected condition of the Atlantic States painted with a fervid pencil and a filial hand. Their old fields covered with the growth of the pine, their villages decayed, their houses deserted, and their citizens gone. Who, sir, but would mourn over desolation like this? would weep to witness the infliction of such a punishment? There is nothing, perhaps, which more powerfully appeals to the sympathy of the human heart than the narrative of the misfortunes of those who have passed from the highest tide of prosperity, to obscure want. But that the impression may sink deep and lasting, the picture must be just. A mistake in this is fatal. It will chill your charity, and dry your tears. How, then, does this work of the imagination contrast with all that meets your eye throughout the broad Northern Atlantic States? They have advanced in their population, augmented their commerce, improved and increased their agriculture, adorned and extended their cities, founded new seats of learning, revived those whose decaying lights were going out, and added with a most unexampled rapidity to the private wealth of individuals the progress of the arts and sciences, the building of roads, the opening of canals, and the laying of railways, until they have extinguished space, and almost condensed their cities to a unit. In all this the broad hand of prosperity has made its deep and indelible impress. This forms a small part of the *punishments* inflicted upon the Atlantic States by the disposition of the public lands.

But, Mr. President, let us inquire, for a moment, into this system of rewards and punishments, which has excited so much denuncia-

tion. I do not mean to utter any thing unkind, or invidious, or in the spirit of complaint, but in the right of rejoinder, I may be permitted to contrast the action of this Government in regard to the two grand divisions of the country—the Atlantic, on the one side, and the interior on the other. I think it requires no great mental effort to perceive that there is sound philosophy in the parallel, that this division in the Republic into too great sections has a necessary existence in their natural position. It is the history of all governments, and wherever they have had durability it has been by the action and reaction of balances established by natural causes, and preserved by a skilful administrative policy. In the West we have lands. We therefore want men; and men and lands constitute the greatness of our position, and from which, as a resource, we may build up a flourishing country. In the progress of industry this is a necessary consequence. It is not more natural in us, therefore, to ask you to do that in regard to the public lands which will benefit and protect the laboring settler, than it is wise in you to grant the demand, because it will, in the end, promote a common prosperity. Such, sir, is the true “head and front” of the whole system of rewards to the West. But not merely to balance this for the past, the present, and through all future time, has it never occurred to you that for all the purposes of taxation and expenditure, ours is a Northern Atlantic Government, and those States are, have been, and most probably will continue to be, the great recipients of the mass of the public expenditures? The difference between us is that we of the interior are tax-payers, but not receivers of the great body of the appropriations. In the Atlantic they are tax-payers and receivers too, and their industry is actually stimulated by that which they consume, because the premium at which they are permitted to do it is returned into their hands, either for the products of their soil, or their skill in manufactures. Thus the system of punishments proceeds. It is in the Atlantic States that you have erected your most costly palaces and public works; your custom-houses and light-houses; and, added to all these, you have improved their harbors. I repeat, sir, I do not speak in the spirit of dissatisfaction, but of justice. Our brethren of the Northern Atlantic do but enjoy their position, perhaps with no greater tendency to the monopoly of all the moneyed favors of the Government than is natural to man where his slightest caprice has been respected, and all his wishes indulged. These men for whom we ask your protection against the speculator, are both tax-payers and land-buyers at your own price—and for all this we inflict a punishment upon the old States, by building our ships there, when they might be constructed on the waters of the Mississippi. We purchase there almost all our naval and military stores, when they might be obtained in the West. In the

manufacture of fire-arms, and all the munitions of war, Tennessee and Missouri can offer facilities not to be excelled in any part of the world; but in the harshness of our severity, we punish our friends and fellow-citizens of the Atlantic, by the manufacture of these articles within their borders, that their raw material may be used instead of ours, their skill employed, and their provisions consumed. We have punished them by giving to the deaf and dumb asylum of Connecticut a township of land—and of the millions appropriated for the support of our Government, more than five-sixths are expended in the Northern Atlantic States. Above all, we punish them by expending every surplus dollar we make in their ports. No matter how it comes, whether from the toil of the miner or the ploughman, the hardy trapper or the trader of Santa Fé, the wealthy merchant and the manufacturer of the North gather within the year the hard earnings of the whole West. But, sir, I ought to add that other, and that last punishment which we inflict upon them, and from which, like the rewards they bestow on us, we all derive a common benefit. We punish them by seeking to improve that proud and glorious navy which protects them in war, and enriches them in peace.

This is a hasty review of the *punishments* inflicted upon the Northern Atlantic, peculiarly; and it must be admitted they are at least gentle and tender. In return, sir, though you may call them by the name of rewards, give to us similar punishments—so gentle, so kind, so modest, so tender! That is, sir, let us have the advantages of our position—of land and men—as you have the advantages of your position; and do not seek to become a great land merchant, holding up your merchandise for higher prices, or fretting over the apprehension of the loss of a few cents. It is not demanded by your obligations—it is unsuited to the greatness of your policy.

Let us hear no more, then, of “privileges and bounties,” of “rewards and punishments,” or of the obscurity of the man of the Atlantic, while that gilded coach parades yonder city, and that humble laborer delves in the soil of the far West, and while that banker has been, or is to be, made yet more than a millionaire, with potent privileges, that princes might envy, while that lonely emigrant asks leave to pay, from the labor of his hands, the price you have fixed upon the little spot of earth where he has reared his log-cabin, and placed in it, as its queen, the wife of his bosom, the partner of his perils and his toils.

In one word, bestow upon the men of the West who shall go there, those kind, those gentle, and those tender punishments which we bestow upon the Northern Atlantic. Give us, I repeat, the advantages of our position, as we give to you the advantages of yours, and do it not grudgingly.

Mr. MANGUM said as there were several

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*Privateer Pension Fund.*

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Senators, himself among the number, who wished to submit their views in relation to this bill, he would ask its friends to postpone the further discussion of it until Monday next; which being agreed to, the bill was informally passed over.

Mr. CRITTENDEN said he was in favor of a pre-emption law, but it must be on certain terms and conditions; and, to show what those terms and conditions were, he would submit the following proposition, which he would offer when the bill was again taken up, and which he asked might be ordered to be printed:

*Resolved*, That the bill be recommitted to the committee that reported it, with instructions to report amendments thereto, to the following effect:

1. To distribute the proceeds of the sales of the public lands among the several States of the Union in just and equitable proportions.

2. To grant to actual bona fide settlers upon the public lands the right of pre-emption to any quantity thereof, not exceeding one-half section, or 320 acres, including the place of settlement, at the minimum price of \$1 25 per acre; with such provisions as shall limit this right of settlement and pre-emption to actual bona fide settlers whose estate, at the time of settlement, shall not exceed the value of \$1,000; and, furthermore, with such provisions as shall effectually exclude the wealthier speculators from all benefit under this law, and shall prevent them from interfering with, or participating in, the privilege and right of settlement and pre-emption, which are hereby granted and intended for the sole advantage of the needy and honest settlers and cultivators of the soil.

Mr. LINN then gave notice that he should move an amendment to the amendment of the Senator from Kentucky, for the purpose of appropriating the proceeds derived from the sale of the public lands, to increase the national defences. He hoped both his amendment and that of the Senator from Kentucky would be voted down; but he would move as often as this question came up, to apply the money to the protection of their frontier, both maritime and inland, from aggression in future time.

Mr. BENTON said the proposition of the Senator from Kentucky was based on the one which there was no difficulty in comprehending. But the Senate and the country, from the first of the present session, had been told of the existence of a national debt which that Senator and his friends affirmed did exist, but which he (Mr. BENTON) and his friends denied. The Senator had his thanks, nevertheless, for coming forward with this proposition so openly: it was an intimation of the policy of the new Administration—of their intention to add to the national expenditures, to restrict the income of the country, and then to have recourse to a high tariff. He deemed this the opening up of the whole policy of the new Administration, and he was not willing to vote on it now; if they could decide against it by forty to one; he wished that policy to be laid open to the view of the people of the United States, and he

only rose now to thank the gentleman for his declarations of yesterday and to-day—of yesterday, in favor of a National Bank, and to-day, on the subject of the land revenue, by which three or four millions would be diverted from the national income, and would have to be made up by loans and taxes. He (Mr. BENTON) again thanked the Senator—they should now have a fair contest and no "bush whacking." They (Mr. BENTON and his friends) would go to the contest with the opposite gentlemen, and they should see whether a national debt should be created, but which the Senators on the other side said did now exist, which he (Mr. BENTON) denied, and they should see whether so large a sum should be withdrawn from the public revenue. He once more thanked the honorable Senator, and promised him that he would be met in the coming contest.

Mr. CRITTENDEN would extend his claim to the gratitude of the Senator from Missouri, by the further avowal that he should be in favor of such an additional imposition of duties as will supply an adequate revenue to the Government.

Mr. CALHOUN said it was evident this debate would take a wide range, and would bring the whole subject of public lands before the Senate; he rose to give notice that he would move, as an amendment to the amendment of the Senator from Kentucky, a bill to cede the public lands within the limits of the new States on certain conditions therein mentioned.

The amendment proposed by Mr. CRITTENDEN was then ordered to be printed.

And the Senate adjourned until Monday next.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, January 8.

#### *Privateer Pension Fund.*

Mr. SALTONSTALL submitted the following, which was agreed to:

*Resolved*, That the Secretary of the Navy be directed to communicate to this House what amount of money was received by the United States under the act of June 26, 1812, and the act of February 13, 1813, providing that two per cent. of the net amount of prize money arising from captures made by the private armed vessels of the United States be set apart as a pension fund, as set forth in said acts. Also, to report whether the same, or any and what part thereof, was invested; and if so, in what stock or securities; and at what price the said investments, and also the sales thereof, were made. And also to report when the said pension fund became exhausted, and how much of the same, or the proceeds arising therefrom, was paid to persons other than those for whose use the said fund was pledged by the said acts, and under and by virtue of subsequent acts.

And then the House adjourned.



## IN SENATE.

MONDAY, JANUARY 11.

*Permanent Prospective Pre-emption Law.*

This bill being again in order,

The PRESIDENT stated the question to be on the motion of the Senator from Kentucky (Mr. CRITTENDEN) to recommit the bill with instructions.

Mr. CRITTENDEN said, when he offered his motion, he did not intend to delay the bill, and he would now leave gentlemen to dispose of it as they thought proper.

Mr. BENTON looked upon the proposition of the Senator from Kentucky, if adopted, as going to destroy the bill—not directly, but by loading it down with incongruous matter. There was a latitude usually allowed to Senators in their amendments of measures brought before them, and when it was desired to destroy the whole bill, it was customary to move to strike out all but the enacting clause, and to substitute other matter instead; but to include in a bill incongruous matter that was entirely foreign to its object, whatever might be the object of the mover, was directly to defeat the measure. He knew it was also a fair and parliamentary practice, where Senators approved of part of a bill, and disapproved of other parts, to move to strike out the objectionable matter; but what was the proposition then made? There was a bill to grant pre-emptions, which they had done for forty years under this Government—a question which was not only free from constitutional difficulties, but one, the benefits of which had been tested by experience—and for the first time, a gentleman who was hostile to the bill, offers a proposition to amend, not by striking out all after the enacting clause, for that would be parliamentary, but to amend by adding to it a scheme for the distribution of the public land revenue! Could anything be more incongruous than this? The distribution of the land revenue brought up a question of the gravest kind—it involved a constitutional question of great importance—it would originate the inquiry whether the land revenue was not as much the revenue of the Government, when it came into the Treasury, as every dollar paid by the merchant on the importation of his goods; and then came up the consideration of the distribution of the revenue of the country at all; and that, if they had the right, whether it would be expedient to do it at any time, especially at the present time. Then would follow the whole question of their financial system, the income and the expenditures of the Government, and the inquiry whether it was possible for the Government to get along with the current payments without the land revenue; and then, if the Government could not get along without the land revenue, how was the deficiency to be supplied—whether by loans or taxes? Here, then, were questions of the greatest moment; some of them believed to be unconstitutional, and

others mischievous, and all involving a vast mass of expenditure, which would bear heavily on the country. Now he repeated that it was contrary to all legislation—contrary to all customary rule of proceeding, thus to bring in a foreign and overpowering and overshadowing subject at such a time, to sink and destroy an ordinary measure of legislation, as it passed along. He held that this ought not to be the mode in which an enemy of the bill should attack it; the Senator from Kentucky (Mr. CRITTENDEN) was the enemy of the pre-emption bill; and let him then attack it fairly—let him attack it in the front—let him give his reasons against it; but let him not, by this side movement, bury it under incongruous matter—let him not destroy it by a side blow; as the measure was passing along. Such a proposition as that by the Senator from Kentucky does not belong to the legislation of the Senate—it does not belong to the legislation of any body, and he (Mr. BENTON) denounced it as contrary to all fair legislation, wherever legislation was known.

This distribution policy commenced some years ago, and he then denounced it; he told them that if they commenced a division of the surplus, it would be but a little time before they divided that which was not the surplus. In one of his speeches, to which he had not thought it necessary to refer, he had told them that if the States once began to lick that blood, they would live on no other food from that time forth—if they began to look to the Federal Government for money, they would come in and take from that Government the means of its own support; and now had they not proved the truth of his prediction? He had told them then that to distribute among the States what was called the surplus, which was then placed in the banks, would be either to make the deposit banks close their vaults, or to ruin their debtors; and he had told them, also, that it must be done to the exhaustion of the Treasury; but nothing would do, for the books called it "surplus." He told them if they took that first step, it would be the first plunge downward, from which there was neither retreat nor halt; and had they not now a proposition, in four short years from the time of his prediction, to abstract from the current income of the Government a sum of four millions of dollars per annum, at a moment when the Secretary of the Treasury showed them, in his report, that it was as much as could be done to make the annual outgoings and incomings balance each other—at a time, too, when gentlemen on the other side proclaimed a debt of twenty-seven millions of dollars, which they intended to detect at their called session? What, then, were to be their feelings? Were they to look on and see the Federal Government stripped of every shilling of its revenues? Were they to see the States, when they found themselves in want of money, seize the means of the Federal Government, and tell it to take

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care of itself? Had it come to this? He denounced it as one of the most outrageous propositions that was ever made under our form of government. Here was a proposition to withdraw one-fourth part of the revenue in a time of difficulty, and at a period when one party was proclaiming a hidden, a secret debt of twenty-seven millions, and the gentleman who made the enormous proposition, did not tell them what substitute he had to propose. Why did not the gentleman go on with his instructions, and direct the Finance Committee to borrow four millions of dollars, or to issue four millions of Treasury notes, or to impose four millions of taxes to supply the place of the abstracted land revenue? And let him observe, they could not deceive others if they deceived themselves. If they deceived themselves they could not deceive others when they said: "We cannot constitutionally borrow money or raise money by taxes, to divide among the States; but one thing we can do; we can take the money we find in the Treasury, give it to the States, and impose a tax, or borrow, or strike Treasury notes to supply the place of that which we give away." And yet this was the proposition of the gentleman from Kentucky: qualify it as he pleased, defend it or shrink from its defence, as he pleased, it came to this: "here is a marked proposition to raise revenue by loan or tax for distribution among the States." In the mind of every candid man it was the same as a proposition to lay a tax for distribution among the States in the first instance.

Mr. LIGN defended the bill. He said that this Government had been settled on the pre-emptive system from the beginning; and he wished to keep the beginning, the middle, and the end together. In allusion to the epithets applied by some gentlemen to the settlers, of "land stealers" and "squatters," and of the opinion of others in contradiction of his statement, that a small civil force, and an enforcement of the laws, would preserve the public lands from encroachment, he said that it was a scriptural injunction to man to possess the earth, and replenish it; but if it were "land stealing," this was a nation of land stealers from the beginning, for they had either stolen it or cheated the Indians out of it; and therefore the appellation would apply equally to their forefathers. That the movement of the people would be onward, he again asserted; and he denied that the laws were a sufficient safeguard of the public lands. Jurors could not be found to convict in such cases, which were uniformly decided against the Government, at an expense of many thousand dollars. Would they, then, send an army to destroy the "squatters?" If he had an enemy in the world, (and he believed he had not many,) he would wish him no greater infliction than the scorpion stings of conscience, with which the execution of such a commission would be succeeded. It was not unusual by legislation,

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to heal breaches in the law. Charters were sometimes violated, and legislation was resorted to to heal the breach. Here, then, was a breach of the law by the settlers, and they were asked to pass this bill, to heal the breach.

Mr. CALHOUN wished to move an amendment to the amendment of the Senator from Kentucky. He hoped now the debate would take the widest range, and embrace all the subjects in connection with the great land question.

Mr. OLAY, of Alabama, requested the Senator from South Carolina to put his amendment into shape, so that it could be printed, and to give way for a motion to adjourn.

Mr. CALHOUN assented, and his amendment was ordered to be printed. Its object was to strike out all after the enacting clause, and to substitute his "bill to cede the public lands to the States in which they lie, on certain conditions."

The Senate then adjourned.

TUESDAY, January 12.

*Permanent Prospective Pre-emption Law.*

The bill to establish a permanent prospective pre-emption system, in favor of settlers on the public lands, who shall inhabit and cultivate the same, and raise a log-cabin thereon, being the special order of the day, was taken up, the question being on the proposition by Mr. CRITTENDEN to recommit the bill, with instructions to report a bill to distribute the proceeds of the sales of the public lands among the States, which Mr. CALHOUN offered to amend, by substituting a bill to cede the public lands to the States in which they lie, upon certain conditions.

Mr. CALHOUN said: I regard the question of the public lands, next to that of the currency, the most dangerous and difficult of all which demand the attention of the country and the Government at this important juncture of our affairs. I do not except a protective tariff, for I cannot believe, after what we have experienced, that a measure can again be adopted, which has done more to corrupt the morals of the country, public and private, to disorder its currency, derange its business, and to weaken and endanger its free institutions, than any other, except the paper system, with which it is so intimately allied.

In offering the amendment I propose, I do not intend to controvert the justice of the eulogium which has been so often pronounced on our land system, in the course of this discussion. On the contrary, I believe that it was admirably adjusted to effect its object, when first adopted; but it must be borne in mind that a measure, to be perfect, must be adapted to circumstances, and that great changes have taken place, in the lapse of fifty years, since the adoption of our land system. At that time, the vast region now covered by the new States, which have grown up on the public domain,

belonged to foreign powers, or was occupied by numerous Indian tribes, with the exception of a few sparse settlements, on the inconsiderable tracts to which the title of the Indians was at that time extinguished. Since then, a mighty change has taken place. Nine States have sprung up as if by magic, with a population not less, probably, than two-fifths of the old States, and destined to surpass them in a few years in numbers, power, and influence. That a change so mighty should so derange a system intended for an entirely different condition of things, as to render important changes necessary to adapt it to present circumstances, is no more than might have been anticipated. It would, indeed, have been a miracle had it been otherwise; and we ought not, therefore, to be surprised that the operation of the system should afford daily evidence that it is not only deranged, but deeply deranged, and that its derangement is followed by a train of evils that threaten disaster, unless a timely and efficient remedy should be applied. I would ask those who think differently, and who believe the system still continued to work well, was it no evil, that session after session, for the last ten or twelve years, Congress should be engaged in angry and deeply agitating discussions, growing out of the public lands, in which one side should be denounced as the friends, and the other as the enemies, of the new States? Was the increasing violence of this agitation, from year to year, and threatening ultimately, not only the loss of the public domain, but the tranquillity and peace of the country, no evil? Is it well that one-third of the time of Congress is consumed in legislating on subjects directly or indirectly connected with the public lands, thereby prolonging the sessions proportionally, and adding to the expense upwards of \$200,000 annually? Is it no evil that the Government should own half the lands within the limits of nine members of this Union, and over which they can exercise no authority or control? Is it nothing that the domain of so many States should be under the exclusive legislation and guardianship of this Government, contrary to the genius of the constitution, which, intending to leave to each State the regulation of its local and peculiar concerns, delegated to the Union those only in which all had a common interest? If to all these be added the vast amount of patronage exercised by this Government through the medium of the public lands, over the new States, and through them, over the whole Union, and the pernicious influence thereby brought to bear on all other subjects of legislation, can it be denied that many and great evils result from the system as it now operates, which call aloud for some speedy and efficient remedy?

But why should I look beyond the question before us to prove, by the confession of all, that there is some deep disorder in the system? There are now three measures before the Senate, each proposing important changes, and the

one, or the other, receiving the support of every member of the body; even of those who cry out against changes. It is too late, then, to deny the disordered state of the system. The disease is admitted, and the only question is, what remedy shall be applied.

I object both to the bill and the amendment proposed by the Senator from Kentucky, (Mr. CRITTENDEN,) because, regarded as remedial measures, they are both inappropriate and inadequate. Neither pre-emption, nor distribution of the revenue, received from the public lands, can have any possible effect in correcting the disordered action of the system. I put the question, would one or the other contribute in the smallest degree to diminish the patronage of the Government, or the time consumed on questions growing out of the public lands, or shorten the duration of the sessions, or withdraw the action of the Government over so large a part of the domain of the new States, and place them and their representatives here, on the same independent footing with the old States and their representatives, or arrest the angry and agitating discussions which year after year distract our councils and threaten so much mischief to the country? Far otherwise would be the effect. It would but increase the evil, by bringing into more decided conflict, the interests of the new and old States. Of all the ills that could befall them, the former would regard the distribution as the greatest, while the latter would look on the pre-emption system, proposed by the bill, as little short of an open system of plunder, if we may judge from the declarations which we have heard in the course of the debate.

As, then, neither can correct the disease, the question is, what remedy can? I have given to this question the most deliberate and careful examination, and have come to the conclusion that there is, and can be, no remedy short of cession—cession to the States, respectively within which the lands are situated. The disease lies in the ownership and administration; and nothing short of parting with both can reach it. Part with them, and you will at once take away one-third of the business of Congress; shorten its sessions in the same proportion, with a corresponding saving of expense; lop off a large and most dangerous portion of the patronage of the Government; arrest these angry and agitating discussions, which do so much to alienate the good feelings of the different portions of the Union, and disturb the general course of legislation, and endanger ultimately the loss of the public domain. Retain them, and they must continue, almost without mitigation, apply what palliatives you may. It is the all-sufficient and only remedy.

Thus far would seem clear. I do not see how it is possible for any one to doubt that cession would reach the evil, and that it is the only remedy that would. If, then, there should be any objection, it can only be to the terms or condition of the cession. If these can be so

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adjusted as to give assurance that the lands shall be as faithfully managed by the States as by this Government, and that all the interests involved shall be as well, or better secured than under the existing system, all that could be desired would be effected, and all objections removed to the final and quiet settlement of this great, vexed, and dangerous question.

Mr. CRITTENDEN replied to Mr. CALHOUN, and occupied the Senate for about two hours. He referred to the extraordinary course pursued towards him by the gentleman from Missouri, (Mr. BENTON,) and by the gentleman from South Carolina, (Mr. CALHOUN,) the former having considered his proposition as most *extraordinary* and *enormous*; and the other as *idle*, *ridiculous*, and *foolish*.

Mr. C. took a general view of the whole subject of the pre-emption bill, and defended with much ingenuity and skill his proposed substitute and amendment.

Mr. BENTON again adverted to the arguments adduced by the enemies of the measure under discussion, and particularly to the attempted defence of the gentleman from Kentucky, (Mr. CRITTENDEN.)

Mr. CRITTENDEN rejoined, and

Mr. BENTON again replied, and the debate was continued between them until the hour of adjournment.

THURSDAY, January 14.

*Permanent Prospective Pre-emption Law.*

The bill to establish a permanent prospective pre-emption system, in favor of settlers on the public lands, who shall inhabit and cultivate the same, and raise a log-cabin thereon, being the special order of the day, was taken up, the question being on the amendment offered by Mr. CALHOUN to the motion to recommit the bill made by Mr. CRITTENDEN.

Mr. SEVIER said he knew of no political question, except it were a question involving national or State honor, or a question of war with a foreign power, in which his constituents felt an interest so deep and universal, as they do in a just, speedy, and final disposition of the public lands.

[After speaking of the opposition of the old States, Mr. S. proceeded:]

Hence we find, with the exception of my friend from South Carolina, (Mr. CALHOUN,) of my friends from New Hampshire, and a few other generous, lofty-spirited Democrats from the old States, who have stood by us heretofore, and who stand by us now, the old inveterate and uncompromising opposition to every land measure desired by the new States. And what are these measures, and why are they opposed? There are three of them now before us. The first, the pre-emption bill; the second, the distribution bill; and the third, the cession bill.

The pre-emption bill proposes to authorize

any citizen of the United States to give one dollar and twenty-five cents an acre, for one hundred and sixty acres of land, provided he will improve and cultivate it. The friends of this bill support it with a view of protecting the labor of the poor man against wealthy land speculators. They allege, and prove it by official documents, that the land sold at auction, and without a pre-emption right, yields to the Government but two or three cents an acre more than the pre-emptor pays; and as the loss to the Government is so trifling, and as protection to the settler is so important to him, as well as to the State in which he resides, they urge the passage of this bill. During the last forty years, we are told, and truly, that several pre-emption laws have passed, but all of them retrospective, and applicable *only* to settlers on the public land, at the time, or prior to the passage of those acts. And such bills of late years have been opposed, on the ground, among other reasons, of their unconstitutionality; because it was said to be a law lacking uniformity; because it granted privileges only to certain citizens of particular States, and not to all the citizens of all the States. To obviate this objection, and at the same time to save the trouble of constant applications for the passage of such laws; and to save the time and expense of Congress in passing such laws; and lastly, to obviate the constitutional scruples of very conscientious gentlemen, the friends of the measure have proposed this bill, which is of a *prospective* character, extending to the citizens of all the States the same rights and privileges that former pre-emption laws conferred to certain citizens of particular States. With the single exception of its *prospective* feature, it is precisely the same bill which has been passed frequently, at different times, for the last thirty or forty years.

This is the pre-emption bill, sir. I have given you, in a few words, its length, and depth, and breadth, and a few of the reasons which influence its friends to support it. Its passage is opposed by gentlemen for sundry reasons, some of which are avowed, and some of them concealed; and by all of its opponents it is opposed for the same reasons, whether avowed or concealed.

One of the main reasons, though not avowed, for opposing the pre-emption bill, is to prevent the emigration to, and the settlement and improvement of the new States. The wealthy of the old States desire to retain their poor citizens among them for what they call operatives, (that, I think, is their polite term for the class I allude to,) for the purpose of working on their farms and in their shops and factories; and by so doing to keep down the price of labor by increasing the demand for employment. They oppose it because they imagine that such a bill is calculated to keep down the price of land in the new States, and in that reduction they imagine emigration will be successfully encouraged; that the poor will then become elevated

in condition; that laborers will become scarce among them; that the price of labor will increase, and that by such a process the value of their real estate will be affected and diminished. This wealthy class have now, as they ever have had, their representatives in this chamber.

The politicians of the old States (always excepting my democratic friends I have before alluded to) oppose this bill because they are jealous of the rapid growth of the new States, and fear a loss of political power and consequence; and therefore, considering this bill, as they do, as a temptation to emigration, and as leading to a loss of political power, they oppose it. To keep these people on their muster roll, that they may be counted in the census, they would sooner see them in poverty, rags, and misery, in their country, than rich, happy, and prosperous in ours. Their reasons for opposing this bill are well understood in the new States, and, thank God, properly appreciated. This is not all. The old States want the land in the new to bring the highest possible price, that they may have annually more money packed over the mountains, to be spent among them on their wharves, light-houses, buoys, and breakwaters, and the Lord knows what; not satisfied in placing on our shoulders a protective tariff on the necessities of life for their benefit, we must also be saddled with a high land tariff, a sort of English corn law, that they may thrive and fatten at our expense; and, most generous souls! when they were kind enough to modify the tariff in 1832, to save the Union; a reduction, at that time, of the land revenue, never entered into their imaginations, no, never. These, Mr. President, are some of the *concealed* reasons for opposing the pre-emption bill. I will now consider a few of those which have been avowed.

The Senator from North Carolina (Mr. MANGUM) objects to the passage of this bill, because, he says, pre-emptioners are an unworthy class, a lawless banditti! His idea of the settlers upon the public lands in the new States, is that they are a sort of North Carolina bluebeards, who are ragged, dirty, brawling, browbeating monsters, six feet high, whose vocation is robbing, drinking, fighting, and terrifying every peaceable man in the community.

Mr. MANGUM here rose to explain, and said he referred to *aliens*.

Mr. SEVIER said he had not so understood the Senator, but no matter, they are all God's creatures, and a portion of them are his (Mr. S.'s) constituents. This is the idea he has of them; but now, sir, no description on earth is further from the truth than the one he has given of them. On the contrary, sir, the settlers upon the public lands constitute the best part of the population of all the new States; and that is saying a good deal for them. It is saying that they constitute the best portion of the population of the United States; and that is saying a good deal for them. Sir, I never was in Europe, and never intend to be, and therefore am

unable to contrast the settlers upon the public lands, with the better part of the population of the old world. But, sir, I have been in North Carolina. I was born and lived in sight of Buncomb; from the door of the house of my nativity, though in a different State, I could look out and see the high blue mountains of that celebrated country. I knew, in the early years of my life, many of its inhabitants. I have since been in Wilmington, the seaport city of that State, and have travelled through the turpentine region, which I understand is the best part of the State; I have met with her citizens at home and abroad, and most willingly bear testimony to their worth and virtues. And yet, sir, I assure the Senator that I should not blush, or dread a comparison of my constituents upon the public lands, with the best his State offers, by any standard of virtue, intelligence, or worth, which he or others could suggest. I have heard a great deal said about the settlers upon the public lands. This is not all. I have seen written descriptions of the emigrants to the new States, and only the other day I met with a description of them, which will, I dare say, whether he considers it poetry or prose, afford him some amusement, if not instruction. The extract is taken from Hall's Magazine. He says:

"First in order, as he is always first when speculation is concerned, comes the hardy, enterprising New Englander. Of all the emigrants to the West, Brother Jonathan alone knows where he is going to—the cheapest mode of travel, and what he is going to do when he gets there; he alone has read the pre-emption laws, and knows what sum he must take with him, or notions in the way of trade, to secure a home in the wilderness. Already, before he gets there, he converses fluently about ranges, townships, and sections, has ascertained the number of acres in each subdivision, the amount reserved for schools, and is ready on his arrival to avail himself of his new position."

"Behind the rest, some distance in the rear, comes the lonesome looking couple from *old North Carolina*. They had evidently, from their appearance, ventured their all, such as it was, upon the enterprise. An old one-horse tumbrel, with two high creaking wheels, an old store box for a body—drawn by a lean pony of the preceding generation, constituted their mode of conveyance. A bed, a spinning-wheel, a pair of cards, a bag of dye stuff, and a few hanks of copperas-colored cotton, with six sickly-looking children, made up their stock in trade. As they moved slowly along, the man walking before, and the wife behind the tumbrel, their lean pony occasionally stopping to crop the tall grass which stood in the way, it was evident to all who saw them, that they had long since arrived at that term of life which the magistrate alluded to, who married them, when he said '*better for worse*.'

Well, now, sir, if the Senator is ashamed of his old neighbors and friends, who probably have stood by him in many a hard-fought political battle, I assure the Senator that I am not. They are a good sort of people, and I

wish we had more of them among us. I had expected the Senator would back these friends of his, and do something for them, give them at least a pre-emption, if not a donation of land, to support the wife and the poor little sickly creatures, as well as the lean but faithful pony. But it seems that I have mistaken the man, and I am sorry for it.

The Senator objects to this bill for another reason. He says that this bill allows more than one pre-emption. Well, suppose it did. Suppose it allowed the settler to pay for every place he found vacant and unimproved, on which he should build a habitation and cultivate; is there any very great outrage in that? If a poor man settles upon, improves, and pays for one tract of land, and he should afterwards sell it, what harm is there in letting him settle and improve and pay for another quarter section of land? I can well imagine it might be to his advantage to pursue such a course—I can well imagine there might be cases where it might require, as in the case of the emigrant from North Carolina, I have already referred to, some two or three removals, before he would find himself in a condition to stick comfortably. Such an indulgence is calculated to encourage industry and enterprise, and to improve both the state and condition of the settler; and, at the same time, to get rid, for a valuable consideration, of that most odious of all monopolies, a monopoly of the public land, by the great *non-taxpaying power*, the General Government. I think such indulgence right and proper. But the Senate think otherwise, and have already obviated the Senator's objection. He is violently opposed to any such indulgence. He says, one of our Western hunters can travel without difficulty, the whole of our frontier, from the St. Peters to the Kiamichie or Red River, and be able to select, and to *squat upon*, and locate, the very best tract of land on the whole route! What unparalleled monstrosity. He would not only not permit such a fellow, with his flap and leggins on, to have a tract of land even if he could sell bear meat and peltries enough to pay for it—no, not he; he would not even permit him to camp upon the public lands for a single night, lest such abomination would pollute even the soil itself on which he slept. He would remove him forthwith from the public lands. Not, however, with the militia! Oh, no, sir. Mr. Poinsett, you know, Mr. President, gave us some trouble about the militia bill, of which, perhaps, the honorable Senator has heard something—and the Senator is rather too smart to be caught tinkering with men in uniforms. He would send a constable to remove him with his warrant and staff of office! Would his constable succeed? Oh, yes! quite likely—quite likely, sir. Friendly persuasion often effects what force would fail to accomplish, and it has been said, that a poor man, in any extremities, when forsaken by the world, can safely count upon two friends, two inseparable companions, that will never desert

him: his dog is one, and the constable is the other.

The Senator from Connecticut (Mr. HUNTINGTON) also objects to the passage of this bill. He cannot bear the idea of a poor man having the privilege of entering, by pre-emption, a hundred and sixty acres of *rich* land. Because, the brute may have the audacity to select a spot of land where there may be *water privileges*!—*water privileges*! Why, sir, he loses the equanimity of his temper at the thought that a poor devil may slake his thirst by drinking from a spring of pure water, or of having a tub-mill to grind meal for his family. What privileges! I have heard of this objection before, but never heard of it without feeling as though I had swallowed a dose of tartar emetic or ipecacuanha. All the Senators who oppose this bill, represent it as a revival of the *credit system*. Yes, sir, credit system! and upon that hypothesis, they have favored us with some learned discourses upon the evils of the credit system. Sir, when I heard these eloquent harangues, coming from a certain quarter of this chamber, I felt something like the Senator from Kentucky (Mr. CLAY) did, on his return from Richmond, a year or so ago; when he wished to express his surprise at something he heard in this chamber, he exclaimed, "Where am I, Mr. President? Am I in the Senate chamber, or not? Do I see you, Mr. President, or not? Is that the chandelier I see there, or not? Is that the picture of the father of his country which I see suspended over you, or not?" He could not have been more surprised on that occasion, than I have been at the philippics and tirades of certain honorable Senators against the credit system—some of them the advocates of the reception, for dues to the Government, of the papers of broken, suspended, and non-specie-paying banks—and all of them the advocates of depositing the revenues of the General Government with the States! The credit system, indeed! Sir, all their fears are without foundation. We propose to sell no land by this bill, or any other, upon credit. We do not propose to part from our land without the cash. It is true, we propose to delay the sales of the lands, to which there are pre-emption claims, for twelve months, except it should be thought advisable to sell the land at an earlier day; and of that matter, the President of the United States is the sole judge; and whenever it is sold, the cash must come. It is merely a question between March and May, and June and September. The pre-emption bill may hasten, but, in no event, can it retard the sales; and whenever it is sold, to-day, to-morrow, six or twelve months hence, the money must be paid down or the claim is forfeited, and is subject to be sold to any one who will buy it.

Another objection to the passage of the bill is, that settlers upon the unsurveyed lands are placed upon an equal footing with those residing upon the surveyed lands. These settlers

have always been upon an equality, and they ought to be upon an equality. If the lands are not surveyed, it is our fault, and no fault of theirs; and if you are determined to cripple our States in this manner, you have only to refuse, as you have the power to do, to pass the appropriations to carry on the public surveys, and you accomplish your purpose. You survey when and where you please, and are not more in the habit of consulting the wishes of the settlers upon this than upon any other question—that is to say, sir, they are never consulted by you upon any subject.

Sir, I do not desire to be tedious, and must now pass on to the other bills under consideration, which are offered as substitutes for the original bill. The next bill in order is the distribution bill. Well, sir, I am not going to discuss this bill at this time, if I ever do. I made a speech against such a proposition twelve months ago, and am not disposed to repeat now what I said on that occasion; and especially as I have been anticipated by the Senator from Missouri, (Mr. BENTON.) He, sir, for this session at least, has given this bill its death blow—it has fallen dead under his Herculean blows—he has demolished it, killed it, murdered it; and I have no disposition to take up the time of the Senate in mangling the carcass of the deceased.

I was glad, however, to find, from the course of his remarks, that the Senator from South Carolina (Mr. PRESTON) intended to vote against the distribution bill, because he considered it inexpedient and unconstitutional. There is some consolation in this, sir; for at a future day we may need his services in resisting the passage of this identical bill.

The next bill which is proposed as a substitute, is the cession bill. This bill proposes to cede the public lands to the States in which they lie, on certain conditions. Taking the cession, as qualified by the conditions, and it amounts to little more, if any thing, than a transfer of the management from the National to the State Governments. The lands are now managed by the General Government, and at its sole expense; and if this bill passes, the lands hereafter will be managed by the States respectively in which the lands lie, and at their exclusive expense. And as an indemnity to those States for their trouble and expense in managing this great interest, and as a consideration for the surrender of the five per cent. on the sales of land in their limits, hereafter accruing, to which they are entitled by the terms of their admission into the Union, the bill proposes to give to the States thirty-five per cent. of the gross proceeds of the sales of the land. This is the bill—a bill which has been most falsely characterized as a bill to give away the public lands. It is my favorite bill, because it embraces the cession clause, by which we get the heavy, crushing, Federal foot from off our necks, and because it puts it beyond the power of a future Congress to raise the price of the

public lands, as a future Congress will do, if the growing avarice of the old States should continue to increase, and they should have the power to accomplish it.

It is my favorite bill for other reasons. It embraces the pre-emption and graduation clauses: of the former of these propositions I have already spoken; and of the latter, I have but a word or so to say, as the subject of graduation is familiar to every Senator; and what I propose saying, is elicited by a remark made the other day by the Senator from North Carolina, (Mr. MANGUM.) He opposes the graduation principle, because, in the course of time, the refuse lands may bring a dollar and a quarter an acre, and, therefore, he is unwilling for the Government to make such a sacrifice. He states, as a justification for his argument, what is doubtless correct, that in 1836, the public lands brought a great deal more than what they had been estimated at in 1828. No doubt of it, and what was it that did not bring a great deal more in 1836 than it did in 1828? Will the Senator select that year as the proper time to test the value of land, or any thing else, in either old or new States? Does he not know that the inflated prices of land, and every thing else in 1836, broke the banks, merchants, and traders, and the United States, if not the world? Most certainly. I should select any other than 1836 as the proper time to estimate the true value of any thing. Where is the old State that has refuse lands to dispose of, that holds them up to any thing like the prices to which you hold up the refuse lands in the new States? Nowhere, sir. No Legislature of any State in this Union would dare pursue such a policy; nor would any Senator here, with all his feigned independence, dare to pursue such a policy, were they but within the reach of the citizens of the new States. They pursue towards the new States, who are not their immediate constituents, a course of policy they dare not adopt in regard to their own States. What a commentary upon that good old rule of "doing as you would be done by."

The next objection to this bill is, that it is changing our most admirable land system—and that is monstrous. Will you change a system, they ask, which has operated so happily for forty years? Behold Ohio and Indiana! See what magnificent communities have grown up under our most admirable land system! Yes, sir, Ohio and Indiana have grown up with surprising rapidity, and so has Russia under the edicts of her absolute Emperors, and that, too, without the magical benefits of our admirable land system! Has our land system produced the growth of either Ohio or Indiana? No, sir; far from it. They would be better off, if you had neither lands nor land systems in the limits of either. And have we not changed our land system frequently? We have changed it, in reducing the quantity of land authorized to be sold. We have changed it from a credit to a cash system. We have changed it, by reducing

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the price from two dollars to a dollar and a quarter an acre. The distribution bill, which those gentlemen advocate, is a proposition to change the land system. And have any of these changes checked the growth of Ohio or Indiana? No, sir. They have gone steadily onward—and would have done so, if they had never heard of any of your land systems.

Mr. President, I have dwelt longer than I had intended upon this great question, and have, before I conclude, but a single remark to make, and that is, that public sentiment in the new States requires a change in the disposition of the public lands, and, sooner or later, public sentiment in that quarter will have it done. On this subject there is a collected moral force which cannot and will not be successfully resisted. And is it not your duty to respect this public opinion? Is it not our duty to promote the peace and happiness, whether it be disturbed by real or imaginary causes, of every member of our Union? And, in accomplishing so high and so noble a purpose, does it become us to stand out upon mere trifles? What are a few dollars, more or less, to the National Treasury, in comparison to such high and absorbing considerations? And, after all, is it not our duty as far as in us lies, to make every citizen of every State a freeholder, an independent and happy man? What spectacle is there so pleasing to a virtuous and feeling heart!

Mr. SMITH, of Indiana, said: While the original bill granting pre-emptions to actual settlers was the only question before the Senate, I felt no desire to say a word upon it; but since the proposition of the Senator from Kentucky, and the amendment to that proposition submitted by the Senator from South Carolina, have fairly brought before the Senate for discussion the whole subject of the public lands, I have come to the conclusion that it might be expected of me to take some part in the debate. And, sir, permit me to say that I enter upon this discussion with the more pleasure, because I have not the least idea that the question will be settled at this session, now half expired, and because I feel not only willing but anxious that my sentiments should be fully known by the people of my State before the next session of Congress, during which I hope to see the whole subject amicably and finally arranged; for, sir, if I know myself, I desire to represent, on this occasion, and upon all other subjects, both the interest and wishes of my State, and to those wishes and that interest I will at all times, on all questions of expediency, conform my own action here, as her representative, with great pleasure. I have said that I consider the bill and the proposed amendments as bringing the whole subject before the Senate; for, sir, I cannot agree with the Senator from Missouri that they are incongruous. I consider them entirely germane, and legitimately connected, both for argument and legislation. The whole subject may well be

arranged in a single bill, and as the basis of such a bill must include the principles of one or both of the proposed amendments, it is entirely proper that they should be discussed with the original proposition.

I propose to notice the different propositions that have been made for the disposition of these lands, in as brief a manner as I can, and show how they stand. At the commencement of the last Congress of the administration of Mr. Adams, I took my seat as a member of the House of Representatives. At that time the questions of graduation and pre-emption were the favorites for discussion. Well, sir, pre-emption laws, in some shape, have been passed from that day to this; and we now have one before us, differing somewhat in character from any former law, of which I will speak hereafter. But, sir, the graduation bills have shared a very different fate. Not a session of Congress has been held without discussing or acting upon a graduation bill in some shape or other. General Jackson came into power on the tide of unbounded popularity: his friends were devoted to his person, and his partisans sustained his measures with great unanimity. He was most decidedly in favor of graduation: he held it up, as did his adherents in the West, as the antagonist measure to the distribution principle, as carried out in Mr. CLAY's land bill, and when the President defeated that bill, he proclaimed graduation as the proper measure. Well, sir, he held the station for eight years; and at the expiration of his term, Mr. Van Buren came into power. Like his predecessor, he, too, recommended graduation; the Secretary of the Treasury favored it as a financial measure; his partisans in the West held it up to the people as an Administration measure. At the last session of Congress the bill passed the Senate about the same time the pre-emption bill did; they went to the House together; the pre-emption bill passed, and the graduation bill slept on the table. There was power enough to pass the Sub-Treasury bill and the pre-emption bill, but the graduation bill was forgotten. Thus, sir, twelve years, including the administration of General Jackson and Mr. Van Buren, have passed away, and the graduation bill stands precisely where it did when I came to Congress first. From this I am led to believe either that there never was any serious intention of passing it by those who clamored the loudest for it; that it was merely held up to the gaze of the people as the opposition measure to distribution, for the purpose of defeating the latter measure, or the people were opposed to it, and the dominant party knew it, and were afraid to pass it; and let me say to Senators now, that I have not the least idea it ever will pass, unless it shall be connected with the pre-emption and distribution principles, upon terms of compromise of the whole subject.

The objections that are urged against the graduation bill are, first, that it unsettles the land policy; secondly, it reduces the price of



the real estate of the country; thirdly, the principle of graduation, by the time the lands have been in market, is arbitrary and unjust; inasmuch as the tables of sales show that lands which have been long in market still find purchasers at the minimum price of one dollar and twenty-five cents per acre. These objections are entitled to due consideration; and although I do not expect to live long enough to see a graduation law standing upon its own basis, I will briefly notice them. As to the first objection, it will depend entirely on a prior question; that is, would the change be for the better? If so, there can be no objection on that ground; as frequent changes have been made, and the land system has been much improved by them. Instance the sub-divisions of the tracts; the introduction of the cash for the credit system; the reduction of the price from two dollars, which was the minimum, to one dollar and twenty-five cents, the present minimum. The second position is, that it reduces the price of the real estate of the country. This assumption I think rather specious than substantial; it would certainly tend to sell the land, and cause it to be improved at a much earlier day than it otherwise would be; and as the value of the improved land depends upon the state of the improvement of the country, it follows that the cultivation and improvement of these lands at an early day must tend to increase rather than diminish the value of the other improved lands in the same section of country; at least, the effect would not be perceptible against this view. In the next place, it is contended that the principle of graduation by time—that is, the length of time lands have been in market—is arbitrary and unjust, because lands that have been long in market still find purchasers at the minimum price. This matter is perfectly plain and simple of solution. Lands have an intrinsic and a relative value. A graduation bill by time only applies to the intrinsic value of lands; they are sold by their relative value, by which I mean that the locality, quality of soil, water privileges, timber, and many other qualities, compose the intrinsic value of a piece of land, and for which it receives an early purchaser; while lands wanting any of these qualities would be passed by the settler in the first instance; but, after the country around becomes settled and improved, these lands, thus passed by, become relatively valuable in consequence of their locality, and not their original intrinsic value; and that relative value finds for them purchasers. I have no doubt but that at least one-half of the lands that are now called refuse, may in a series of years be forced upon purchasers at the minimum price. This is my view of the matter. It looks very plain to me; and yet it has excited a long debate to account for the apparent phenomena, how could it be possible that these lands could be inferior lands, and still find purchasers? There are connected with this part of the argument two important questions: first,

is it right for the Government to hold up these lands at a price above their intrinsic value, until they are sold by their relative value, and thereby avail itself of the industry of the purchasers of the surrounding lands to give that relative value? The other is, should the settlement of the country be retarded, and the States prohibited from taking the lands, until that relative value shall have been given to them by the surrounding improvements? I have heretofore thought that both of these questions should be decided in the negative, and have voted accordingly; and, as I have heard no complaint of my votes, I shall in this instance take the same course, though I feel quite easy about it, and would willingly conform to the will of my State by voting either way, or make a reasonable compromise of the whole matter to secure greater benefits in the final adjustment of the land question.

I come now, Mr. President, to the more important question of pre-emption as embraced by the bill before us. As I have already said, laws on this subject have been passed from time to time, differing in some particulars from the bill before us, which I will look into as I progress with the argument.

But, before I give my views upon the question, I desire to say a few words in relation to my vote against an amendment to the original bill, which excluded foreigners from the benefits of pre-emption. It has been urged by Senators that the restriction should have been incorporated in the bill; they contend that persons who have no interest in our Government, and who owe allegiance to a foreign power, ought not to have the benefits of a law which they contend grants exclusive privileges. There is much force in the argument, and were there not countervailing considerations, I should be disposed to go with them; but, sir, let it be remembered that, previous to obtaining the benefit of the law, residence, improvements on and cultivation of the land, are requisite on the part of the pre-emptor; this I considered tantamount to a declaration of a bona fide intention on the part of the settler to become a citizen of the United States; indeed, it is one of the most conclusive evidences of that intention that could well be conceived of. Still, I voted to require the declaration to be made in writing before the pre-emption shall operate. I cannot agree with Senators who think there is great danger of this class of foreigners overturning or injuring the Government, by their votes or otherwise. Sir, let me tell Senators that this is not the class of men from whom danger is to be apprehended. These are honest, hard-working, industrious men, who support themselves and families by the sweat of their brows; men who attend to their own business, and not the concerns of the public; they are not the class of political foreigners who hang around your seaports and the suburbs of your large cities, making politics their trade, preaching agrarian and loco-foco doctrines

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in the daytime, and lighting loco-foco matches and rioting at night—the levellers down, because they cannot level up. Men who do not betake themselves to honest callings for a livelihood, and who are the enemies of those who do; these are the men you may watch; but when you see a foreigner take his family into the Western country, settle down on a piece of wild land, commence his little improvement, surrounded and aided by his wife and children, you may rest satisfied that you have nothing to fear from him; he is of the useful class of foreigners that ultimately become our best citizens. The spirit that prompts him to acquire property will induce him to protect and defend it. The other class are not affected by pre-emption laws, for they would not cultivate and improve the new lands if you would give them the privilege free of cost. I have seen many of this class in the West as well as in the East, and I have never seen one of them claiming pre-emption privileges. The other class usually apply for the benefit of our naturalization laws, and become citizens at the earliest period possible; they are good members of society, and I desire to give them all encouragement I can consistently with the provisions of the constitution.

It will be my purpose, for a few moments, to call back the attention of the Senate to the pre-emption bill at the point where we left it. The objections to a pre-emption bill, so far as I can understand them, are, first, that such a bill encourages persons to leave the old States and settle in the new. To this I would say, that surely Senators would not deprive their brethren of the privilege of bettering their condition in life if they think proper to do so. We are all in pursuit of happiness, and if any portion of the citizens of the old States are willing to leave the homes of their fathers and migrate to the West in search of a better home, hard would be that heart that would prevent them; and harder still would be the heart of those who would not receive them with open arms. Ours is a common country, and let us never forget that neither our affections for each other nor our love of country, should be separated by geographical boundaries or State lines.

Secondly. It is objected that the principle grants exclusive privileges to a class of men who rush in advance of civilization and seize upon the public property, and it has even been suggested that they might be restrained by the action of the Government. To this I would say, that legislation should always adapt itself to the condition of affairs. We must look at things as they are, and not as they might be supposed to be, or we legislate for a supposed and not a real state of things. That spirit of enterprise and discovery which is characteristic of the Anglo-Saxon race—that spirit that animated the Pilgrims, and the first settlers at Jamestown—that spirit that prompted a Boone, a Clark, and a Kenton, to penetrate the Western wilds, and encounter and overcome the

perils that surrounded them—that spirit which fired the early settlers of the West, induced them to leave the peaceful homes of their fathers, and brave the savage rifle and tomahawk, to settle a new country—I say that same spirit is impelling our people onward; the tide that commenced rising and flowing west from the shores of the Atlantic is still rolling on, and can only be arrested by the waves of the Pacific. Our people are already settling beyond the Rocky Mountains, and in a few years more there will be a nation of our citizens in that region. You need not talk of arresting this spirit; it forms a noble trait in our character, and it should be provided for. The privileges granted are those of selecting, occupying, cultivating, and paying for at the minimum price, a quarter section of Government land, securing to the settler the fruits of his own industry, in exclusion of all others. It is said that these lands, if sold at public auction, would bring a higher price than the minimum. This may be so in many cases; but here again we must look at the matter in its true light. I consider the pre-emption laws merely declaratory of the custom or common law of the settlers. If you make your public sales, and put up lands thus improved, the settler will become the purchaser at the minimum price. No one will bid against him; no honest man would take from a poor man the improvements he had made on a piece of land, and no dishonest man would dare to do it. Previous to a sale all the settlers in the district have a perfect understanding that each is to have the piece of land he lives upon, and they will neither bid against each other, nor will any other person risk the consequences of taking from any one his improvements by purchasing his lot of land. Sir, who could do it? Who would dare to do it? Whose conscience would suffer him to do it? And here let me answer a position assumed by the Senator from North Carolina, (Mr. MAN- GUM;) he spoke of the bowie-knife and the rifle settling the question of pre-emption between the settlers themselves. I know the Senator would not make the statement, unless he believed that the consequences he fears would grow out of such conflicts; but let me assure him he is wholly mistaken. One pre-emptor has just as much regard for the pre-emption right of another as he has for the personal property of his neighbor, or as the citizen landholder of the old States has for the real estate of others to which he has no claim or title; or, in other words, the occupancy and cultivation of land by a settler secures to him the right to purchase that land, in exclusion of every other settler, as effectually, by the custom of the settlers, as if pre-emption laws guarded his claim. I may here be asked why pass a pre-emption law then? My answer is, the same that would be given to the passage of a declaratory statute; to leave no doubt on the subject in the mind of any, and to provide for a possible case that might occur. While I am on this

point, I must say one word as to the general character of these pioneers. I may be pardoned for supposing that I have had some opportunities of judging that some Senators who have spoken, have not. More than twenty years of my life have been spent on the frontier. I have seen my State in her infancy, with the fairest and largest portion of her territory in the possession of the Indians. I have seen her pass through the different gradations of improvement, until she has arrived at her present high grade in the comparison with her sisters. I have seen the first rude hut, the first log-cabin, erected by the first occupant of the wilds of what is now the most beautiful and highly improved portions of my State. I have seen, heard, and conversed with the early settler, and let me assure Senators he is the last man that would willingly do injustice to his country, and the very first, in times of peril, to bare his manly bosom and nerve his strong arm in her defence; and although he may be as rough and as rude as his own log tenement, his heart beats with patriotic emotions for his country; he is a warm friend, a kind neighbor, ever hospitable to strangers, and, still better, an honest man; his poverty and his enterprise, with the hope of bettering his condition, and providing for his family, stimulate him to leave his old friends, the homes and the graves of those who are dear to him, plunge into the wilderness, and undergo the perils and deprivations incident to the settlement of a new country. Do you ask me where is the evidence of his industry and usefulness? I answer you by pointing to the West. Go there, and see for yourselves—let the great West answer for the emigrant.

I have, Mr. President, a single remark to make upon a question arising out of a principle of the particular bill before the Senate. The principle of granting prospective pre-emption has been strenuously opposed, as being a departure from previous laws on the subject; as holding out a bounty in advance, for settlement. As to the first of these positions, I must say that a prospective pre-emption is much more justifiable than a retrospective one. The case stated, in my opinion, settles the question. In the case of a retrospective pre-emption, you justify a trespass actually committed on the public lands, and grant to the trespasser the benefits of the pre-emption law, for you have a law in full force declaring it to be a trespass to enter upon these lands, destroy the timber, take stone, or commit other acts inconsistent with the rights of the Government. In the other case, you justify no trespass, but by law grant the privilege to the actual settler. The second position assumed I answer by saying that such has been the practice of the Government for a series of years; that the stimulus created by a prospective pre-emption law would not be perceptible. The settler relies with full confidence on the security of his right of pre-emption, either by a retrospective law,

such as we have been in the habit of passing for his benefit, or the custom or common law of settlers, of which I have spoken. I dismiss this part of the subject with the single additional remark, that, as pre-emption laws have been passed, as they have not been productive of any visible public injury, and as that portion of our fellow-citizens for whose benefit they are passed confide in their continuance, I see no impropriety in the measure if sufficiently guarded.

Having noticed the graduation and pre-emption principles, I must proceed to the examination of the bill of the Senator from South Carolina, (Mr. CALHOUN,) called the cession bill. It is not my purpose to discuss the whole details of the bill, but to merely state some of the prominent objections to it, at least those objections that have satisfied my mind that it ought not to become a law. I have already stated that I fully concurred with that Senator in the importance and magnitude of the subject, and the propriety of its arrangement, so as to rid Congress of the subject, if possible. In these points the Senator and myself agree; but in the remedy he proposes, we totally disagree. I have already showed that his bill only covers the lands in the nine States, amounting, in the aggregate, to only 160,000,000 acres out of ten hundred millions, the whole quantity; hence the apparent inadequacy of the proposed measure to remove the difficulties of the present system. But I desire to pursue this matter further, and show the gross inequality of the measure as applied to the nine new States. The Senator from South Carolina (Mr. PIERCE) touched this point in his remarks the other day, in his usual able manner, and has relieved me from the necessity of going so much at large into it as I would otherwise have done. I hold in my hand a table prepared for the Committee on Public Lands, and appended by that committee to the report on the bill I am now discussing, without, it seems, even noticing the glaring inequality presented by it. Sir, I present that table to the Senate: it is an important document, essential to a correct understanding of the position I am examining.

By an examination of this table, the great diversity in the condition of the nine new States will appear in a glaring light. I will take the two States of Indiana and Arkansas to illustrate the idea. The aggregate of the whole of the public lands that Indiana contained, as estimated by the table, was 20,629,359 acres; of this quantity there have been sold 15,158,702 acres; granted to the State and individuals, for all purposes, 1,074,638 acres; unsold, including lands unsurveyed, 4,396,494 acres; the purchase money received by the General Government into the National Treasury from the sale of the 15,158,702 acres is \$19,826,301. The quantity of land in Arkansas is 31,468,910 acres. Of these there have been sold 2,464,710 acres; granted to the State and individuals for all purposes, 976,896 acres;

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and there remain unsold 28,027,804 acres. The United States have received for the sale of these 2,464,710 acres, the sum of \$3,110,897. Indiana contains a population of near 700,000 souls, and Arkansas a population of about 100,000. Thus stand the two States. Now let us see the application of the principles of the bill of the Senator from South Carolina to these two States. Here stands Indiana with her 700,000 souls, having paid into the National Treasury the sum of \$19,326,801 for the lands already sold, receiving under the bill her thirty-five per cent. of the proceeds of the remaining 4,396,494, while Arkansas, with her 100,000 souls, having paid into the National Treasury only \$3,110,897, would receive her thirty-five per cent. of her 28,027,804 acres, subject to like charges. So that Arkansas, containing the smaller population, and having paid the least money into the National Treasury, would receive greatly the most in the dividend.

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Mr. WHITE said: However imperfectly I feel myself able to discuss this subject, I am conscious, nevertheless, that in deciding upon it, I occupy an impartial position. Indiana, in her progressive advances from a wilderness state to the dignity of the fourth or fifth member of the Union, has reached that period in her history, when she may hold with a steady and an equal hand the scales of interest between the old States and the new. While, then, I listen with most respectful consideration to abler counsels than I myself can aspire to give, upon a subject whose growing magnitude has inspired veteran Senators with such apprehension, as even to justify precipitation and immature legislation, I shall endeavor so to record my vote upon the several propositions before us, as to secure to the new States all the equity they claim, and to the old all the right which they challenge, and to all the States an advantage of the most momentous importance, to be gained, as I conceive, from no other source than from the proceeds of our bountiful domain.

I concur fully with Senators who have ascribed so great an importance to the measure now before us. If we regard it merely as a question of finance, it carries a grave and serious import. Not the least among the high functions of Government is its power to raise and expend money. Next to the power to declare war, and to place under the arbitrament of the sword the life and fortune of the citizen, the power to raise revenue is the highest prerogative of sovereignty. Of equal importance is it if we have respect to the question of population or settlement, and of social organization. These difficulties are increased by the medium through which Senators choose to regard the subject. While the Senator from Missouri (Mr. BENTON) complains that we will not treat the

public domain as a fund for revenue, the Senator from Tennessee (Mr. ANDERSON) contends that it is by no means to be considered as a question of finance. Concurring fully, as I do, with the honorable Senator who introduced the bill now on your table, in the propriety of a permanent pre-emption law, I protest against the justice of the remarks with which he accompanied its introduction, and to which I shall hereafter have occasion to advert. My purpose, now, is merely to express my regret that a measure so interesting, and I may add beneficent, as the final disposition of our public domain, could not be presented to this body by the dominant party, without a conjuration of influences well calculated to disturb the harmony of our legislation—influences which have lately been aroused in the conflict of contending parties, and which had expended themselves in the most conclusive demonstrations at the ballot box.

The bill and amendments before us contemplate a permanent and conclusive adjustment of the interest of the United States in this domain; and from the general view which we have taken of its uses, and of the nature of the trust with which the Government is invested in regard to it, we are prepared to discuss the several principles and details involved in the bill and proposed amendments.

From the beginning of our land policy, settlement and occupancy seem to have been the object of the Government. It is true that largesses have never been proposed, nor bounties awarded, to induce a cultivation of our wild domain. On the other hand, the Government has, with all possible expedition, from time to time extinguished the Indian title, and thrown the lands into market. The Indian claim removed, no other obstacle has been left by our laws in the way of settlement, no limits prescribed to the exploration of the adventurous pioneer. The method of settling the Western lands in compact masses, by townships at a time, has been always repudiated. The Government has incurred no expense to protect the settlements. No garrisons or military posts have been established upon our frontier with this express reference. On the contrary, it has been left to the same fearless and hardy spirit of individual resolution which dared to encounter the obstacles of nature and the terrors of the forest, to defend the pioneers against the marauding incursions of their savage neighbors. The rifle and the axe have gone together into the wilderness, borne by the same hand. The mother has left the couch where her infant reposed, to watch over the labors of the backwoodsman while engaged in his daily and toilsome task, and to give the first alarm against the treachery of the Indian; and the hour of midnight repose has been rendered secure only by the guardianship of the hunter sentinel.

In such a way as this, sir, have your great transmontane valleys been settled, until now security has succeeded to danger, and the alarms of a border war are drowned in the noisy tread

of commerce and of speculation. The pioneer has borne the dangers of the adventure; shall he not reap its honors and rewards? Unaided, unregarded, uncompensated, he has laid in virtue and in peace the foundations of several of your most powerful States, strengthened the bonds of your confederacy, added new interest to your commerce, augmented sources to your revenues, security to your liberties, and fresh glories to your empire. Will you now withdraw from him your patronage when first it begins to be valuable; or rather, will you not confirm to him his ancient charter? Is the same wise and liberal policy yet to continue, of covering this continent with Republican States, or is the sordid gripe of avarice to arrest this march of civil liberty towards its utmost destination? Is this paternal Government willing to adopt the motto: "*Querenda pecunia primum est—virtus post nummos*," to postpone the highest political interests of its people to a consideration of revenue?

It is remarkable that in almost every deed of cession from the States, and in both the treaties with France and Spain for the purchase of Louisiana and Florida, guarantees are contained, securing to the people of the acquired territory a Republican form of government, and free and equal admission into the Union. If, then, even in our foreign negotiations this appears to be a fundamental object, let us not thwart, by our domestic policy, the earliest attainment of so great an end. Let revenue be a mere incidental consideration, or in the expressive and simple language of a member of the first Congress, "let us make the best of liberty, our people, and our land."

Senators object to the pre-emption policy mainly upon these grounds:

1. That it injures our exchequer by diminishing the price received for the lands.
2. That, by conferring privileges and bounties upon the people of the new States, it is partial in its operation, and unjust to the people of the old States.
3. That it produces an unnatural and forced drain upon the population of the old States; and
4. That it engenders a spirit of insubordination to the laws, and will lead to mischievous riots and excesses by tolerating a scramble for the public property.

To the first objection I reply that, before the former pre-emption laws had operated to any extent, the gross average at which the lands have been sold since the present minimum price was established, is about one dollar and thirty cents per acre. The inconsiderable loss of five cents per acre does not weigh a feather in the scale against the equity of pre-emption. To appease even the ill-founded complaints of a single State having public lands within its borders, you ought not to hesitate to make so small a sacrifice. You have assessed the value of the lands at \$1 25 per acre. Why should you expose them to sale at auction? Many of

these lands are not worth the minimum price, and yet you refuse, and for good reasons, to graduate them downwards. Why should you graduate them upwards? In any department of business there are evils in the auction system, and it ought to be avoided when it is possible to do so. It is the parent frequently of ruinous speculations, arising from an undue competition which such an occasion generally arouses. Upon the commerce of our citizens we lay an equal duty, and do not sell the protection of our navy to the highest bidder. The facilities of the public mail, and the privileges of the Patent Office, are afforded at fixed rates. No part of our revenue except from land is raised in the shambles. Government offers none of its favors, none of its privileges, to the cupidity of wealth save the domicile of the poor man, of which, by conquest or purchase, it has become the lord paramount.

The second objection assumes what I cannot grant, "that the right of pre-emption is a bounty or a privilege." The pre-emptor pays a fair equivalent for his right, of more value in the end to the Government than the higher price which the capitalist might bid at auction. Foregoing now the argument of increased resources and augmented national wealth, produced by conveying the lands to the actual occupant and cultivator, I urge the consideration of enhanced value given to the adjacent lands by improvements in their neighborhood. How much the sale of this class of lands has been hastened by such causes, it is impossible to estimate; but I venture the assertion that your Treasury, enriched as it has been from every source, including the twenty-five millions of Treasury notes, which have been issued, could not stand the shock of yielding up its gains, derived in this very way. Is it more in the nature of bounty to give these lands for a fixed price to the first occupant, to the most industrious citizen, than to the wealthiest, who may perchance bid more than they are worth? But in what respect is this system unjust to the people of the old States? Certainly the lands are not a fund for individual aggrandizement and profit. Whatever relation the Government, as the trustee of the lands, bears to the States, upon the great principles of equity, which I shall by and by discuss, it can be under no obligation to parcel the domain out, *per capita*, among the individual masses of the people. The people of the old States remaining such, cannot complain that a purchase is denied to them for purposes of investment and speculation, (I do not like the word,) which is allowed to him who is willing to join the new community in the wilderness, to lay his hearth-stone, and to build his altar there. If the Government does not hold these lands in trust for individual advantage, then it has a right to fix what principles it pleases for their sale and disposition, and surely no complaint can justly be made when those dispositions are friendly to the earliest development of the social and po-

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litical system, and to the increase of population within the limits of the new Territory. Of this I defy refutation.

I am willing to accord a character of plausibility to the third objection to pre-emptions above enumerated. Perhaps the tendency of American enterprise is too much to a diffusive population. To every section of the Union the Government owes an equal patronage, and no patriotic citizen of the West would desire to see his own section built up at the expense of the sister States. Especially would no Western statesman commend himself to his constituents by the enactment of partial laws. The chain of dependence is such between the most distant portions of our confederacy, that one cannot be injuriously affected without sensible loss to the other. It is impossible, however, to restrain the emigrating spirit of our countrymen, and no better rule can be adopted than to leave each one free to follow those impulses which point to his own prosperity and happiness. While the rewards of agriculture in the rich and fertile plains west of the mountains are more tempting to the citizen than the appropriate pursuits to which those are destined who remain in the Atlantic States, it would be wrong to check that virtuous ambition which is emulous to reach them. Let it be remembered that agriculture is almost the universal pursuit of the Western emigrant; and the more this proportion of our population increases, the more our real independence is secured, and the faster our national wealth is augmented. I am not about to adopt the exclusive and exploded doctrines of the Economists, which denied the productive quality to the operations of commerce and to the labors of the artisan. But I do contend that the agricultural employment is best adapted to the genius of our people, and to the condition of our country, and that it ought, and ever will, I trust, maintain a proud preponderance. Need I remind you, sir, that this class, in every emergency, will be the prop and stay of our Republic; that here the virtues which shall save our institutions will find their true abiding place, and that sedition and misrule never enter the peaceful domicile of the husbandman? But there is a view of this subject which takes off the edge of the objection we are discussing. It is, that although emigration may be too rapid from the old States to the new, the nature of our pursuits is such that there is a constant circulation of our population. Though in the process of this mighty provincial accretion, which has so astonished us with its growth, the blood may be forced through the arteries in unusual currents to the extremities, yet the self-restoring efforts of nature shall return it through a thousand veins to the seat of life. The traveller from the old States, after many days, will return with the spoils of industry, and pour the grateful offering into the maternal lap.

A single word or two, sir, shall suffice in reply to the fourth objection. It is in effect a

"begging of the question;" for if you invite the occupant to take possession of your lands, he ceases to be a trespasser. Your act of 1807 forbade trespasses upon the public lands; and yet how little has the moral sense of the community been shocked by the frequent and constantly recurring violations of that act which we have witnessed. The universal sentiment of the nation has pronounced it a dead letter. Can he who seeks a home and a domicile for his wife and children offend against any rule of society? In vain do you set up the artificial authority of any law against so holy a purpose. Restrict your pre-emption law to the actual settler; cut up speculation by the roots, and your statute book will suffer no reproach, nor opprobrium rest upon your authority, from any of the acts which you fear.

That there will be no strife or violent contention among the several beneficiaries of the pre-emption law, the experience of the past sufficiently proves. The north-west corner of Indiana (within my own observation) has been settled by pre-emptors. A more orderly, industrious, or better regulated community, is not to be found.

The argument in favor of pre-emptions is so pregnant, that it seems almost superfluous to adduce the authority of other Governments which have uniformly extended the kindest protection towards their infant settlements. From the time when the wandering Scythian roamed from one hunting ground or pasturage to another, as his brief annual tenure would expire—from the period of the *folkland* and *bookland* of the ancient Saxon, there has been no mercenary legislation upon lands. The far-famed agrarian laws of Rome were designed to aid and protect the colonist. The States of our own Confederacy have either surrendered their lands to settlers or sold them at a nominal price. We are all conversant with that force of public opinion which constrained Massachusetts to pass laws requiring the successful plaintiff in ejectment to pay the occupying claimant for what they termed his "betterments," answering to the "*melioramenta*" of the civil law, or the "improvements" of the Western squatter. A rigorous policy against the settler would be alike in violation of contemporary sentiment, and of all the lights of experience.

You have been reminded, sir, by way of checking too gratuitous a spirit towards the new States, of the bounty and munificence, or as the Senator from South Carolina (Mr. PIERCE) eloquently expresses it, of the *justice* (for what higher attribute can be claimed in these degenerate ages?) of Virginia and the other conceding States, in surrendering their rich possessions to the Union. The new States congratulate themselves upon this result. They congratulate the Union. Had the States retained this territory we should not now perhaps be in the hands of a paternal Government, boasting its redeemed guarantee for our admission into the Union. Wisconsin, Iowa, Florida,

would not have held that guarantee yet to be faithfully and speedily performed. The territory north-west of the Ohio River would have been a mere appendage to the Old Dominion. Louisiana in all probability would not have been acquired, nor the navigation of the Mississippi secured. We should not now have boasted New Orleans, the peerless exporting city of this continent, nor would our great staple growing region of the South have had the valleys of the Upper Mississippi, the Ohio, the Illinois, and Wabash, to pour, free of duty, their abundant and ceaseless supplies into her bosom; thus giving to her annual eighty millions of exports one-third of the element of their value.

As a representative of Western interests, I do not complain of partial or unequal laws; but it cannot be forgotten that commerce has its costly defences, and manufactures a protection springing from your laws. Of necessity, almost, the pecuniary patronage of the Government is limited to the seaboard. In proportion to its numbers, the West is the largest tax-paying section of our country, for the simple reason that not an article of import is produced there. These drains upon our industry we submit to with an uncomplaining temper. But we cannot forget the equity which such considerations raise when you are called to pass laws upon subjects peculiarly affecting our interests. Our staples are the agricultural products which seem to be placed beyond the pale of constitutional protection. Compared with the magnitude of the agricultural interest, all the other products of labor in this country sink into utter insignificance. Commerce has its one hundred millions of exports, and an equal amount of imports, and our manufactures doubtless transcend these sums in amount; but agriculture, towering above all, ascends to two thousand millions per annum. No nation can be perfectly independent which does not raise its own bread-stuffs; and the highest condition of social happiness and prosperity is attained where other interests, to be sure, are flourishing, but when the agricultural interest maintains the ascendant. In every vicissitude of trade, and in every revulsion of Government, while famine and distress too often mark their desolating career in other countries, in peace and in war, our teeming soil continues to yield its fruits to the labors of the husbandman, and our barns and granaries to furnish perpetual resources for the life of man. No event in history is associated with such a mass of human happiness, present and prospective, as the settlement of our Western country, by multiplying and cheapening the food upon which man subsists. But I will not press this topic further. The people of the West, exulting in their growing strength, expect from Congress just and considerate laws, not so much from their power to enforce them, as from the enlightened appreciation in which their claims must be held by the entire Union.

It is matter of regret that the dignity of these claims should be disparaged, or suspicion be

thrown upon them by the manner in which the present bill was introduced into the Senate. When pre-emption laws become the mere football of party, or are converted into an engine for political warfare, it is no wonder that they fail to command that general assent to which they are entitled. The honorable member who brought in this bill remarked, upon its introduction, that the Federal party (as he was pleased to term the Whig party) had, in the recent Presidential canvass, shown so devoted a love for log-cabins and their inmates, he was fearful they would anticipate the friends of the Administration in presenting the measure of a permanent pre-emption, and he therefore hastened to submit the proposed measure. Sir, the significant title prefixed to this bill, if it shall not be interpreted as ironical upon its worthy beneficiaries, has at least that aspect in reference to one of the great parties engaged in the recent Presidential struggle. Certainly, sir, either the bill or its title or some other associations, have produced, in this debate, not a little railleury against the emblems adopted for good cause by the Whigs in the late contest. The freight with which this pre-emption vessel is laden, is acceptable to my constituents, but they like not the flag under which she sails. In a word, sir, it cannot be concealed that this measure is intended to overreach the action of the coming Administration, and either to force that Administration into an antagonist position, or obnubilate its glories by this forced and sudden interposition of a policy for which the country was as ripe eight years ago as now. It matters not to me, however, whether this consummation be achieved under the star of General Harrison, whether it be the concomitant of that series of conservative and patriotic measures which are to restore the character of the age and elevate our institutions, or whether, now urged on by influences no longer to be resisted, the measure has been precipitated upon us by the stern virtue which is felt and appreciated, and, I may add, feared in the character of General Harrison, and by that powerful voice of the people which has pronounced his election.

Connected with the subject of a final settlement of the land question, as proposed by the bill, two antagonist measures have been presented to the Senate. That contained in the amendment of the honorable Senator from Kentucky, (Mr. CRITTENDEN,) proposes to grant to the actual settler, whose estate shall not exceed the value of \$1,000, the right of pre-emption to any quantity of land not exceeding 320 acres, and to distribute the proceeds of the sales of the public lands among the several States of the Union in just and equitable proportions. The other, proposed by the honorable member from South Carolina, (Mr. CALHOUN,) contemplates a cession of the public lands to the several States within whose limits they lie, upon conditions, the principal of which are, that the States shall annually pay to the General Government sixty-



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five per cent. of the gross proceeds, and that the cession "shall be in full of the five per cent. fund or any part thereof not already accrued to any State; and the said States shall be exclusively liable for all charges that may hereafter arise from the surveys, sales, and management of the public lands and extinguishment of Indian title within the limits of said States respectively." It also provides that the States may pass pre-emption and graduation laws. I shall now consider the amendment of the Senator from South Carolina.

I object to this scheme as unsettling the whole land system, approved by the experience of forty years, as destroying that uniformity which has contributed so much not only to the security of titles, but to the value of improvements made upon the newly purchased lands. It transfers the muniments of title from the archives of this Government to the custody of the Executives of the several States, the forms of conveyance of course to be devised by the authorities of those States. It creates new responsibilities unknown to the constitution, and dangerous to our revenues. Who can believe that the States will meet pecuniary engagements of this kind with promptitude? Your laws cannot enforce their collection, and your only reliance is upon the faith of the States. In original engagements of the several States with the world, their plighted faith will be a sufficient guarantee for the redemption of any pecuniary obligation. But here the case is very different. This proposition creates relations between the States and the Federal Government, not very dissimilar to those which existed under the old articles of Confederation. A principal inducement for abolishing the old Confederacy, was because requisitions for money (even for so serious a consideration as the payment of the Revolutionary debt) made by Congress upon the States, were not regarded. The failure of a single debtor State to meet engagements proposed by this measure, would produce dissatisfaction, and justify a like remissness on the part of others. In every aspect of the case, the relation of debtor and creditor between the States and this Government is to be deprecated; but when that relation is relied upon to supply a considerable portion of our current revenue, it can result only in disaster and disappointment, until the sense of obligation shall ultimately be broken. But one experiment of this kind has been made since the era of our constitution, and that was in the act of 1836, depositing forty millions of our surplus revenues with the States. From the moment that this act was passed, and in contravention of its very terms, the sense of the nation has pronounced it a distribution, and not a deposit act. That fund (or rather so much of it as was deposited) has ceased to belong to the resources of the Federal Government; and he who would treat it as such, subjects himself to the just animadversion of every practical man.

But if, for any purpose, and particularly for

revenue purposes, it is unwise and hazardous to involve the States in a condition of indebtedness to the Union, how is the argument strengthened, and the danger increased, when the consideration of that indebtedness is the price of their own domain! Some of the States have already asserted that the proprietary interest of this Government in these lands, and the authority necessarily assumed in consequence thereof, is in derogation of the rights and sovereignty of the States. Such doctrines have been held, I believe, at least in Alabama and Missouri. They have been advocated by prominent members, both upon this floor and in the other branch of Congress. I can regard this amendment in no other light than as an entering wedge for the surrender of all the public domain to the States where it lies. What, sir, are the principles of the contemplated cession? Not, surely, the employment of the States as agents merely of this Government for the sale of the lands, but a transfer to them in their own right, by virtue of a contract of purchase. It was so treated by the Committee on Public Lands at the last session, who were friendly to the measure. The amendment *ex vi termini* recognizes certain rights on the part of the States to control these lands, at least so strong an equity as to render it improper in this Government further to direct their management. How long will it be, after a cession made under such motives and impulses, until the States, habituated to regard these lands in the first instance as their own, shall forget the secondary obligation of yielding sixty-five per cent. of their proceeds to the general Treasury? By this act you weaken, nay, almost destroy, the sanction of the old deeds of cession from the original States, which now cannot be violated without convulsion, and tempt the States to forget a contract which, after the lapse of a little time, shall seem to carry with it no moral obligation. I sum up all, when I say that the success of this measure is the loss of the lands.

WEDNESDAY, January 20.

*Permanent Prospective Pre-emption Law*

The bill to establish a permanent prospective pre-emption system, in favor of settlers on the public lands, who shall inhabit and cultivate the same, and raise a log-cabin thereon, being the special order of the day, was taken up.

Mr. HUNTINGTON submitted several amendments, which will be more particularly designated when the debate to which they gave rise shall be published, some of which were in substance as follows:

Strike out the word "eighteen," and insert "twenty-one," so as to confine the provisions of the bill to persons, heads of families, of twenty-one years of age, and upwards.

Upon this question the ayes and noes were demanded, and resulted as follows:

YEAH.—Messrs. Bayard, Clay of Kentucky, Clay-



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ton, Crittenden, Dixon, Graham, Henderson, Huntington, Ker, Knight, Mangum, Merrick, Nicholas, Phelps, Pierce, Prentiss, Preston, Roane, Ruggles, Smith of Indiana, Southard, Webster, White, and Williams—24.

**NAVS.**—Messrs. Allen, Anderson, Benton, Buchanan, Clay of Alabama, Fulton, Hubbard, King, Linn, Lumpkin, Mouton, Nicholson, Norvell, Porter, Robinson, Sevier, Smith of Connecticut, Sturgeon, Tallmadge, Tappan, Walker, Wall, Wright, and Young—24.

The **VICE PRESIDENT**. The result of the votes is ayes 24, noes 24: my vote is No: so the amendment is lost.

Upon Mr. **TALLMADGE's** suggestion, and by general consent, the word "white" was stricken out of the bill, as free persons of color are allowed to hold property in all the States of the Union.

The amendments of the committee of the whole being concurred in by the Senate,

The question was then taken on ordering the bill to be engrossed for a third reading, and it was decided in the affirmative, as follows:

**YEAS.**—Messrs. Allen, Anderson, Benton, Buchanan, Clay of Alabama, Fulton, Henderson, Hubbard, King, Linn, Lumpkin, Mouton, Nicholas, Nicholson, Norvell, Pierce, Porter, Robinson, Sevier, Smith of Connecticut, Smith of Indiana, Sturgeon, Tallmadge, Tappan, Walker, Wall, White, Williams, Wright, and Young—80.

**NAVS.**—Messrs. Bayard, Clay of Kentucky, Clayton, Crittenden, Dixon, Graham, Huntington, Ker, Knight, Mangum, Merrick, Phelps, Prentiss, Preston, Roane, Ruggles, and Southard—17.

The Senate then adjourned.

THURSDAY, JANUARY 21.

*Permanent Prospective Pre-emption Law.*

The bill to establish a permanent prospective pre-emption system, in favor of settlers on the public lands, who shall inhabit and cultivate the same, and raise a log-cabin thereon, was taken up, and having been read through, the question being on its passage—

Mr. **CRITTENDEN** then submitted the proposition which was negatived when the bill was in Committee of the Whole—to recommit the bill, with instructions to report a bill for the distribution of the proceeds of the sales of the public lands among the States.

Mr. C. said he wished to have a full vote of the Senate on this proposition, and, as there were some Senators now absent who would be here in a few days, he would move that the further consideration of the subject be postponed until Monday.

This was opposed by Mr. **CLAY**, of Alabama, and Mr. **BENTON**, when the question was then taken on the motion to postpone, and decided in the negative, as follows:

**YEAS.**—Messrs. Bayard, Clay of Kentucky, Clayton, Crittenden, Dixon, Graham, Huntington, Ker,

Knight, Mangum, Merrick, Phelps, Preston, Ruggles, Smith of Indiana, Southard, Tallmadge, and White—18.

**NAVS.**—Messrs. Allen, Anderson, Benton, Buchanan, Clay of Alabama, Fulton, Henderson, Hubbard, King, Linn, Lumpkin, Mouton, Nicholas, Nicholson, Norvell, Pierce, Porter, Roane, Robinson, Sevier, Smith of Connecticut, Sturgeon, Tappan, Walker, Wall, Williams, Wright, and Young—28.

The question then recurring on the motion to recommit, Mr. **CRITTENDEN** addressed the Senate at much length, reviewing in detail the measures of the present Administration.

Mr. **WRIGHT** followed in reply, and was succeeded in the debate by Mr. **WEBSTER**, who was followed by Mr. **BENTON**, and then

The Senate adjourned.

FRIDAY, JANUARY 22.

*Extravagance of Mr. Van Buren's Administration—The Charge disputed—Mr. Buchanan's Speech.*

Mr. **BUCHANAN** rose to answer each of the four specific charges of extravagance which had been made by the Senator from Kentucky (Mr. **CRITTENDEN**) against the present Administration. That Senator had called upon him personally to make this answer; and he undertook the task with pleasure, not believing it to be one of much difficulty. Before, however, he should apply himself directly to this work, he would take the liberty of making some preliminary observations.

And in the first place, said Mr. B., permit me to observe, that I, at least, have never introduced into this Senate, as topics of debate, "log-cabins, hard cider, and coon skins;" nor have I ever made an observation here which could be tortured into a reflection upon either the integrity or intelligence of the people of the United States for having elected General Harrison their President. The Senator from Kentucky has promptly and frankly disclaimed any intention of imputing to me such a charge; and with this I am entirely satisfied. The people are the only legitimate sovereigns of this country, and however much I may regret their recent decision of the Presidential question, I shall never, either here or elsewhere, indulge myself in the use of reproachful language against them for this or any other cause.

If I know myself, said Mr. B., I came to Congress in December last with the desire and with the expectation that this would prove to be a business session. It was my sincere wish that the political excitement which has recently agitated the people and has extended to every portion of the land, might, for the present, be suffered to subside, and that we might bring up the arrears of business with which we are now incumbered. I had not the most distant idea that this chamber would again so soon be converted into a mere political arena. Acting

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under a sense of duty, I have abstained from political conflicts since the commencement of the present session, except when compelled to enter the lists in the necessary defence of myself or of my party. I have made no assaults, and have generally been a mere listener.

I had another reason for refraining from any participation in the debate now before the Senate. I knew that the question of the distribution of the proceeds of the public lands was before the Legislature of my own State, and that I might be instructed on the subject; and, as I shall ever entertain and express the utmost deference and respect for that Legislature, whatever political party may be in the majority, I thought that a proper sense of delicacy required me to abstain from discussing this question. I have not, therefore, said, nor do I now intend to say, a single word upon that subject: and I shall either give my vote according to these instructions, should they pass, or resign my seat. I am not the man who, after having enjoyed the sunshine of political favor, will shrink from the storm. I long since, from the deepest conviction, adopted the principle that the representative was bound by the instructions of his constituents. I consider it essential to the wholesome action of a free, Democratic Republican form of Government; and having publicly avowed this doctrine at a period when there appeared to be but little probability that it could ever reach myself, I shall not disavow it in the day of apparent gloom and adversity. I am willing to abide the fate of war.

For a similar reason, I might even have refrained from advocating the passage of the pre-emption bill, dear as it now is, and ever has been to me, had I then known that the instructions before the Legislature of Pennsylvania embraced this subject, as well as that of the distribution of the proceeds of the public lands. I am glad, however, now to find, that even the Senator from Kentucky himself (Mr. CRITTENDEN) is in favor of the principle of pre-emption, and has actually incorporated it with that of distribution in his motion now before the Senate. This renders it certain, that if ever a distribution bill should pass—and from the signs of the times I consider such a result probable—the poor man, who has expended his toil in erecting an humble dwelling, and cultivating the soil, shall not be driven from his home on the public lands of the far West, provided he is willing to pay the Government price for the quarter section which he has selected and improved.

For one, it was both my design and my desire, so far as I was concerned, to devote this session to the necessary business of the country, and to wait patiently until General Harrison should get into power. I shall then judge the tree by its fruits, without any predetermination to oppose his measures. I am bound, notwithstanding, in candor, to declare, that if he entertains the opinion of his friend from Kentucky,

(Mr. CRITTENDEN,) in regard to a National Bank, he (General HARRISON) believes that to be a great good, which I consider one of the greatest evils which can befall the country. Without, at present, alluding to its fatal political consequences, I believe that in a mere financial point of view, it would prove destructive to our prosperity. In order to obtain a specie capital for such an institution, you must either ruin or essentially cripple our State banks; or you must adopt the alternative of borrowing specie abroad, and creating a national debt for this purpose. One or other of these alternatives is inevitable; and the country is not in a condition to resort to either, without great injury to the people. But enough of this for the present. I return to the subject with which I commenced.

I shall now proceed to show that the charge of extravagance which has been so often made and reiterated against the present Administration by both the Senators from Kentucky, (Messrs. CRITTENDEN and OLAY,) is without foundation. It will be for the Senate and the country to decide whether I shall have succeeded.

It will be recollected that in the month of May last, a report was made by the Secretary of the Treasury in obedience to a resolution of the Senate on the subject of the annual expenditures of the Federal Government during the fifteen preceding years. From that report it appears, that the ordinary expenses of this Government, which in 1824 amounted to a little more than seven millions one hundred thousand dollars, had been gradually increasing until the year 1839, when they a little exceeded thirteen millions and a quarter. I mean by "*ordinary expenses*," the money annually disbursed in maintaining the permanent civil, military, and naval establishments of the country, and embracing every expenditure necessary to conduct the Government prosperously in time of peace. Now, in regard to this class of expenditures, I have never heard any Senator on either side of the House complain of their amount, or that they had risen from seven to thirteen millions of dollars between 1824 and 1839. During this period, a number of new States have been admitted into the Union, and several new Territories created—the army and navy have both been considerably increased, and the expenses of Congress have of late years become enormous, requiring reform more than any other branch of the Government. Our expenditures must necessarily increase with the growth of the country; but it ought to be our care that this increase shall be as slow as possible, and never proceed beyond what is absolutely necessary for the public service. We might with as much reason expect that the little garment which was sufficient to cover the child of eight or ten years of age, would prove sufficient to protect him from the wind and the storm after he had grown to be a giant, as argue that the "*ordinary expenses*" of the Government should not have increased with the rapid, nay, the unexampled growth of the nation during the last

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fifteen years. Nothing has been said against these expenses, either in the aggregate or in detail, since they were brought to the attention of gentlemen by the Secretary's report. It is, then, fair to presume that nothing can be urged against a single item of them. On this triumphant result, I am most happy to have it in my power to congratulate the friends of the present Administration.

The Secretary of the Treasury in the same report to which I have referred, also presented an annual statement of the expenses "of an extraordinary or temporary character," from 1824 to 1839, both years inclusive, arranged under different heads. When this report came into the Senate in the month of May last, both the Senator from Missouri (Mr. BENTON) and myself, called upon the gentlemen on the opposite side to point out a single item of extravagance amongst all these expenditures of the Government, whether ordinary or extraordinary. Not one of them was then bold enough even to make the attempt. Our challenge was not met. And now I would ask the Senator from Kentucky (Mr. CRITTENDEN) on whom ought the burden of the proof of extravagance to rest? Would he require the friends of the Administration to go over, item by item, all the ten thousand items of expenditure which have been submitted in a distinct form to Congress, and show that in each particular instance there was no extravagance? This would, as that honorable Senator well knows, be reversing all the rules of common law, as well as of common sense. We present to the Senators in opposition a clear and distinct account in detail of the expenses of the Government; and it is manifestly their duty, if they believe there has been extravagance in any item, to lay their hands upon it, and show wherein the extravagance consists. This they cannot do, or they would long since have accepted our challenge. They are, therefore, driven to condemn in the aggregate, although they can find no fault with any of the details of which this aggregate is composed. They exclaim that the Administration has been extravagant, because it has expended one hundred and thirty millions of dollars in four years, whilst they do not point out in what manner it would have been possible to have reduced this expenditure. It is true, that at this late day the Senator from Kentucky (Mr. CRITTENDEN) has denounced four particular items of the account as extravagant; but I think I shall prove, before I sit down, that he has been less wise and wary than his colleague, (Mr. CLAY,) in descending from generals to particulars.

I do not deny but that the "extraordinary expenses" of the Government have been very large during the last four years. But whether these expenditures were great or small, is not the question. Were they inevitable? Could they have been avoided by any human prudence or foresight on the part of the Executive or his friends in Congress? Was not each of

the treaties and acts of Congress under which these expenditures were necessarily incurred, sanctioned and sustained by the very Senators who now condemn them in the aggregate? These are the true questions.

These "extraordinary expenses" must, from the nature of things, vary with the ever-varying condition of the country. Our circumstances are changing with every changing year. Some years ago, the nation was gliding along on the smooth current of prosperity, and requiring but little above the ordinary expenditure necessary to keep the Government in regular motion. Not so, since the present President came into power. It has been his misfortune, that, during the period of his administration, heavy expenses, of an extraordinary character, which he could not have avoided, were rendered absolutely necessary, whilst the revenue of the Government has been greatly reduced, by causes equally beyond his control. Is it not, then, the most crying injustice—is it not the strangest accusation in the world, to charge the man who happened to take the helm of State when the country was involved in such difficulties, with extravagance, merely because he was compelled to execute treaties and laws which had received the sanction of all political parties in Congress?

Under such circumstances, ought he to be denounced because the necessary expenses of Government happened to exceed, under his Administration, those which were incurred under his predecessors? True economy in a Government does not consist in hoarding money like a miser, and doing no good with it; but, in applying it, with a provident hand, to the accomplishment of such objects as are necessary to the defence and protection of the country. After these objects of expenditure have been designated by Congress, Executive economy consists in accomplishing them at the cheapest rate possible. This is the only economy which can be practised by the President; and if he has neglected this duty in any particular instance, he would be liable to censure; but not otherwise.

In order to swell the expenditures of the last four years to one hundred and thirty millions, Senators have included items not only of the most unjust but of the most ridiculous character. I shall enumerate a few of them.

One large item in this amount was for money expended upon the public buildings. Is there a single member of the Senate who either raised his voice, or gave his vote against the appropriations for this purpose? The money expended on these buildings alone during the period of the present Administration, amounts to between four and five millions. I have not added up the sum; but it is certainly not less than four millions. And yet these appropriations made by Congress, without distinction of party, are converted into an item of extravagance against Mr. Van Buren!

Then there was the money expended in the payment of pensions, amounting to upwards of

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ten millions of dollars. Had the Administration any control over this expenditure? These pensions were granted by a grateful country to those who had defended it in the perilous times which tried men's souls, and who are now the feeble and broken relics of a past age, depending on the public bounty for their support. Congress has also granted pensions to such widows of old soldiers, as in the days of the Revolution remained at home, and attended to their families whilst their husbands went forth to the battle field. Be this right, or be it wrong, had the present Administration any agency in granting these pensions? Did not Congress pass these laws; and did not the Senator from Kentucky vote for them? I do not know the fact, because it is not my practice to examine the journals for the purpose of ascertaining how individual members may have voted; but I do know, from the nature of the man, that he (Mr. CRITTENDEN) is one of the last members of the Senate who would vote against such pensions. And yet, strange to say, the payment of these very pensions to old soldiers and their widows, by the Treasury, is one of the items of extravagant expenditure charged against Mr. Van Buren's administration; and the aggregate of \$180,000,000, composed of such items as these, has been spread over the whole country, in order to alarm the fears of the people.

Again: There was the expense of extinguishing the Indian title within the States and Territories of the Union, and of removing the Indians west of the Mississippi, which amounted to more than ten millions of dollars. Are the present Administration to blame for this expenditure? Could the President have avoided it, after the Senate had ratified the treaties under which it was incurred? No Senator on this floor will say that he could. He had no discretion whatever on the subject; but was obliged to execute these treaties and the laws made in pursuance of them. How unjust is it, then, to put down this item in the aggregate of one hundred and thirty millions of dollars expended by the present Administration!

I might, if I pleased, pass in review all the other heads of extraordinary expenditure detailed by the Secretary of the Treasury in his report, and show that it was impossible for the President to avoid any one of them. He can exercise no dispensing power. He must obey the acts of Congress and treaties; and these laws and treaties were of such pressing necessity as even to have disarmed opposition, and to have received the votes of the political enemies, as well as of the friends of the Administration. I may well spare myself this trouble, as not one of these items of expenditure has ever been questioned by any Senator upon this floor. It is true, they exclaim, you have spent one hundred and thirty millions of dollars, and this is enormous; but they make no attempt to show how it was possible for the President to have reduced this amount.

There are two or three items embraced within this aggregate, of a character so extraordinary as to deserve more than a mere passing notice. In the Secretary's report, the indemnities amount to between six and seven millions of dollars. What are these indemnities? General Jackson, during his prosperous Administration, succeeded in obtaining satisfaction for all the old claims which our citizens had against foreign Governments. He got nearly five millions from France; and I do not recollect precisely how much from Denmark, and other nations. At all events, he left us a clear score, and the enjoyment of peace with all foreign nations. Now, according to the terms of the treaties, these indemnities, obtained from foreign Governments for our own citizens, were paid into the Treasury for their use, and were of course paid out of the Treasury to them, as soon as it was ascertained how much each one was entitled to receive; and yet, strange as it may seem, these very payments from the Treasury constitute a large item of the aggregate of one hundred and thirty millions, about which we have heard so much. This sacred trust fund, which was acquired for our citizens by the most efficient and persevering exertions—this very fund, which was fairly distributed amongst those entitled to receive it, has thus been converted into a charge of extravagance to its full amount against Mr. Van Buren, simply because it was paid out of the Treasury during his Administration. This item shows conclusively why the Senator from Kentucky (Mr. CLAY) goes for footings, and not for particulars. Is this fair towards the present Administration? If it were, then had General Jackson succeeded in obtaining twenty millions more from foreign nations, Mr. Van Buren, who disbursed the money, would have been twenty millions more extravagant; and the gentleman might have exclaimed, "you have expended one hundred and fifty millions of dollars, instead of one hundred and thirty." In making out these debtor and creditor accounts of extravagance, will any man say that it was either just or proper to charge such an item as this against the retiring Administration?

I should have been rejoiced if the subject of the expenditures of the present Administration had not again been introduced until after the accession of General Harrison, because then, as the Senator (Mr. CLAY) says, the books and papers will be in the possession of his friends. They will then be enabled to search those books and papers to their hearts' content; and, for one, I now give them fair notice, that should I be permitted to remain in the Senate, I shall call upon them, when they have all the official documents in their power, to make good the charge of wasteful extravagance against Mr. Van Buren's administration. This is due to themselves, as well as to that portion of the American people who have been deluded into the belief that the present Administration has been guilty of a prodigal and wasteful expenditure of the public money.

MONDAY, JANUARY 25.

*Proceedings in the South Carolina Legislature—Approval of Mr. Van Buren's Administration—Satisfaction with his Southern (Slave) Policy—Condemnation of the Manner in which the Whigs conducted the late Presidential Election.*

Mr. PRESTON submitted the following report and resolutions of the Legislature of South Carolina upon Federal relations; which were read:

IN THE HOUSE OF REPRESENTATIVES,  
December 18, 1840.

The Committee on Federal Relations, to whom was referred so much of the message of his Excellency the Governor, No. 1, as relates to the election of President of the United States, in the construction of the constitution, and the future arrangements as to the tariff of duties on imports, have had the same under consideration, and the subject may be divided and considered under the following heads:

1st. The propriety of South Carolina uniting in the election of President and Vice President, especially when, by so doing, she will give expression to her true principles.

2d. The causes which have led to the overthrow of the administration of Mr. Van Buren, whose policy and avowed principles of action are in accordance with the doctrines maintained by this State. This head will properly embrace an inquiry into the pecuniary embarrassments which have induced the people to lend a willing ear to those misrepresentations which have contributed to the success of the Opposition. The policy and constitutionality of a bank, chartered by the United States: The causes of that combination of the different elements, which united to produce a change of administration: The discordant character of those elements: The security which the avowed policy of the Administration afforded to the peculiar interests and institutions of the South; and the strange delusion which has distracted so many of the Southern States, and led them to unite and make common cause with parties, whose avowed principles are at war with the best interests of the South: And, lastly, the confident expectation, that a development of the inconsistent interests and views of this coalition, will in the end vindicate the wisdom and policy of the Democratic Administration.

3d. The growing corruption of our Federal elections.

4th. The resolutions from Connecticut, relating to a tariff of protection.

Upon the first matter, your committee concur with his Excellency, that every State in the Union is bound to unite in the Federal elections, without regard to the fact, whether the successful candidate agrees with us or not, for candidates can always be found, whose principles and character will well merit such an expression of approval; and the conduct of the State, at the present session, has illustrated the propriety of such a course.

Second. The complicated difficulties which embarrass our monetary affairs, arise from the perversion of banks to purposes wholly incompatible with a sound circulation, and an utter disregard to the elementary principles of banking. No idea is more fallacious than the belief that an abundant circulating medium increases the real value of property. The kindly fruits of the earth,

and human labor, bestowed in adapting materials in their original state to the use of man, are the only sources of wealth; and trade, or commerce, consists simply in exchange of them. Barter is rendered more convenient by fixing on some one article of exchange as a universal property, exchangeable for every other, and this is called money. Gold and silver have, by general consent, become that universal property, so that he who has it, may exchange it for whatever other property he wants. Thus, if a man has an ox to spare, and wants a horse, he sells his ox for gold or silver, and then he exchanges that for a horse. This is trade and the use of money. It is clear then, that money must be itself valuable. It costs labor to procure it. It is useful for furniture and the arts. So that money only facilitates barter, by being exchangeable for all articles. No more money then is needed, than is sufficient for that purpose, and to thus facilitate all the exchanges of a community. Wherever a country has more money than its exchanges require, it will find its way abroad, to be exchanged for other property. A bank note is not money; it has no value. Money can be used—you can convert a dollar into a silver spoon—but you can make nothing out of a five dollar bill. Like every other promissory note, its value depends upon the fact, that the bank which made it has the ability to redeem its promise, by exchanging it for coin when required. It follows, then, an increase of bank paper is not an increase of money, and when more is used than the bank has means to redeem, the bills become depreciated. It is not true, that an abundance of paper money raises the value of property. It is a mere deception. It only makes paper money cheap. The actual exchanges of a country require a given amount of money; and when banks issue their paper only on real transactions, founded on an actual exchange of property, there will be no redundancy of circulation, and property will retain its natural value; but when the banks lend their notes on mere accommodation paper, they are not represented by actual value, and thus swell the circulation, and give a fictitious value to property. This caused all the derangement of our circulating medium. Banks loaned money, or rather their promises to pay money, when no real exchange had taken place; and consequently, their notes being more abundant than the actual business of the country required, depreciated exactly in the ratio of the surplus. Men supposed they were richer because they received more for their property in these notes. Suppose bank notes to be ten per cent. below gold and silver, and two men each have a thousand bushels of wheat to sell; one sells his for a dollar a bushel, and gets bank notes in payment; the other sells his for ninety cents and gets specie. It is clear, the first has made no better bargain than the last, for he who got nine hundred dollars in specie, can exchange it for a thousand dollars in bank paper, and he who got a thousand dollars in paper, can exchange it for no more than nine hundred in specie. When banks exchange or loan their own notes for notes of persons who gave them merely to raise money, and not for actual property transferred, they render the circulation redundant. All loans to Government and corporations for speculative operations, all loans for the purchase of fixed property, as distinguished from mercantile property promptly ex-

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changeable, unless confined in such small portions as may be redeemed by the income or produce, tend to increase the liabilities of a bank beyond its available means, and consequently lead directly to the suspension of specie payments, even supposing the banks to be perfectly honest, and their loans perfectly secure. The Pennsylvania Bank of the United States suspended on 9th October, 1839, and most of the banks South and West did the same. The statement of the situation of the banks on 1st January, 1840, will prove that this general suspension can be traced to a total disregard of the principles of safe banking, and the most unjustifiable use made of the bank capital. On that day the whole bank capital of the Union was \$358,442,692, of which but \$33,105,155 was in coin; yet their immediate liabilities were, for their circulation, \$106,968,572, deposits \$75,696,857; making an aggregate of \$182,667,429. It is not astonishing, then, that they suspended specie payments when they owed \$149,560,274 more than their specie; yet the public owed the banks at that time \$462,896,523. If the public had paid their debt, the banks would have had ample means to have redeemed their circulation and deposits. But no small part of this enormous debt due to the banks, was for loans to Governments and to corporations, who were trying experiments, and individuals who borrowed money to buy property on speculation, at prices swelled out of all proportion by these very loans, which augmented the circulation beyond the exchanges, and thus gave a fictitious value, not by making property dear, but money cheap. These fictitious values have been given away, but the notes of the borrowers from the banks must be paid in specie or its equivalent. Hence that pecuniary embarrassment, which, by being falsely ascribed to the measures of the General Government, enabled the old adversaries of Democracy, under the new disguise of Whigs, to delude the debtor portion of the community into the belief that a change of Administration would restore that redundant paper circulation which swelled the nominal price of property, and enable them to extricate themselves from their embarrassments. They are promised a United States Bank; a measure, which, if it were possible to carry it into effect, would not fail to bring every State institution and all their debtors to immediate bankruptcy. But a short time is necessary to expose this imposition, and bring down upon its authors the bitter denunciations of its victims. There are but two modes of creating a United States Bank. The first is a new subscription, which would, if taken from the specie capital of the present banks, about \$33,000,000, effectually destroy their ability to continue specie payments. The next is, by a species of legislative galvanism, to resuscitate the old bank, give it a Federal charter, and constitute it to be the depository of the public revenue, under some guarantee to be furnished by its foreign stockholders, for the safety of the public moneys. This necessarily supposes the resumption of specie payments by that bank, and her control over all State banks. This measure will give the control of all the revenue of the Union to the foreign holders of that stock, and thus perpetuate the Federal dynasty who have so successfully employed the means placed in their hands. It would enable the wealthy capitalists to bring the property of the debtors of the State banks to the hammer, at depreciated prices, and thus swell the fortunes of the rich at the expense of the public. Such an institution is so utterly at variance with the whole

nature and provisions of the constitution, that it is to be hoped the representatives of the people will resist it. It is clear that the new dynasty must stand or fall on the bank question. If there is created a United States Bank, the Independent Treasury will be abandoned, and the people must at the next election decide on the justice of its fate. If no such bank is created, the only alternative is to deposit the revenue in the State banks, a measure repudiated by a majority of both the great Federal and Democratic parties, or to continue the very measure of Mr. Van Buren's administration, in opposition to which was rallied the celebrated coalition called the Whig party; a proceeding which would at once place in bold relief the flagrant injustice done to that statesman. While your committee duly appreciate the value of banks, when properly conducted, they consider any connection between them and Government except in the ordinary course of dealing as customers, of the most sinister consequences, and inconsistent with the purity and independence of both. The true objects of banks should be known, as on their conduct depends the future welfare of our whole country; and a right understanding of the subject will prevent unfounded prejudice on the one side, which may refuse to the public the benefits which, properly regulated, they can bestow; and, on the other hand, ward off those evils, which their abuse has already spread over our whole country. The real uses of banks are, 1st. To afford safe places for deposit of money; 2d. Expeditious and safe means of payment, by checks in lieu of counting; 3d. By requiring a smaller amount of coin to conduct exchanges, by dispensing with a part of their specie, and substituting their bills, when, by judicious management, the credit of the bank is preserved unquestioned. The money thus released, is actually employed as capital; and by temporary loans, gives renewed and reiterated activity to trade. The very fact, that they issue bills exceeding their money capital, requires that their loans should be short, that they may be always ready to redeem their circulation as fast as, in the round of business, it is brought in. A loan office only lends its actual capital, and as long as the interest is punctually paid, requires no change of investment. 4th. They enable commercial men to extend their dealings beyond their actual capital. Thus, if a merchant has ten thousand dollars capital to invest in an enterprise, he can safely borrow thirty thousand dollars, and the bank can securely loan it if his known character for prudence warrant, that by insurance and other precautions, he will not lose, if unsuccessful, more than a fourth of the amount embarked in the enterprise. In a word, money is only a machine to circulate property; and paper costing little or nothing, is a cheaper machine, but it always supposes its redemption in coin unquestionable. These are the legitimate uses of banks. They are not designed to loan money to Government; and when employed for that purpose, it is a fraud upon the people, and operates as a forced loan, if it is made in bills of the bank. Money loaned to Government, represents no property. It is expended in gunpowder; and leaves, when once used, nothing behind, any more than the powder itself, after it is exploded. But it swells the circulation, and thus depreciates its value, and when carried to a great extent, leads to the measure adopted in England, a legalized suspension of specie payments, and a compulsory tender of bank promises, instead of real, actual money. The prevailing notion, even among merchants, that banks are neces-

nary to facilitate exchanges between the States, especially that a United States Bank is so necessary, is a fallacy, which is capable of demonstration to those who will forget their prejudices, and submit themselves to the guidance of reason. First, then—banks never have been used, and are not intended to deal in exchange between nation and nation. The quality of exchange depends on the amount of property transmitted, generally speaking, and bills originate with the merchant. If a merchant in Charleston transmits a thousand bales of cotton to Liverpool, he has funds to draw upon, and the importer who owes for a cargo of English goods, seeks that bill to remit in payment. It is a proper duty of a bank to discount the bills coming to maturity, where its own capital is located. Thus the Bank of England discounts bills payable in London; but a bill payable in Charleston, would not be discounted at the Bank of England; neither should a bill payable in London be discounted in Charleston. It tends to swell the current of exchange beyond the actual transactions of trade, and introduces that species of bills termed kites, by which two parties at each end of the line, by drawing and redrawing, use exchange as a species of accommodation paper to raise money, not to facilitate exchange of actual products or merchandise. All legitimate exchange is calculated upon the basis of specie; the only money of commerce. There is no real difference between the several States of this Union, and the several countries of the world, who deal together. The value of the bills of the Bank of England or France, does not affect exchanges. It is not necessary to the trade between France and England, that the bills of either kingdom should be current in the other. They are not so in fact, and exchanges are not impeded. The truth is, bank paper, not convertible at will into specie, is no currency at all, but is worse than a delusion. If every State permitted no bank paper not redeemable; if suspension was death, as it ought to be everywhere, a United States Bank is altogether useless. But even a United States Bank would not make its bills redeemable, except at the branches where they were issued. The former bank, to avoid this, even in relation to five dollar bills, drew five dollar drafts on its branches, which, of course, became payable only where accepted. The command of the exchange of the country, gave that bank the opportunity of making bills of exchange the substitute for local discount, thus overburdening the exchanges, enhancing the prices, and thus avoiding the restriction on the rate of discounts, and causing the balances of exchange to depend, not on the balance of trade, but the balance of kiting. When the revolution of 1837 took place, millions of the fictitious exchange was brought to light. It is not wanted to loan its promises to Government, for when Government is under the necessity of borrowing, which ought never to be, except under temporary emergencies, its own security, by being taken as an investment, would not derange the currency, and is the legitimate security for public loans. The privilege of having the notes of a United States Bank, whenever redeemable, receivable for duties, would at once enable it to cripple the State Banks: they, in turn, must insist on the payment of the four hundred millions due them by the people, and in less than two years, the bitter fruits of Whig experiments would be tasted. So far from making money plenty, it would reduce the circulation of the State banks, and reduce property to its value under the hammer. The unfounded allegation that Gen. Harrison's election would raise the value of property, is already in part exposed. He

is elected, and yet money remains the same; property the same. The more cunning part of his advocates, are hoarding their means to buy at a sacrifice, the estates of the dupes who united with them in clamoring for change. The mild and gradual effect of the separation of the Government from banking, the gradual return to the collection of the revenue in money, and the Independent Treasury, were efficacious remedies for a redundant circulation. The hope that any change of Administration could save one whose obligation, payable by the laws of the constitution in specie, is outstanding, for property bought at prices swollen by speculations and a depreciated circulation, from the consequent loss, was too fallacious for an honest Democratic Administration to hold out; and the proposal to cripple all the State banks by placing a regulator, with chartered privileges, to compel them to call in four hundred millions of debts, is the most cruel mockery; and the curses of a ruined country, deep and loud, too, will fall upon its authors. The Independent Treasury, and a well-advised general bankrupt law, applicable to all dealers, was the true means of relief. Now, the wealthy capitalists alone, have any prospect of profiting by this reiterated experiment of a Federal rule, which has always ended in disappointment to the people. Not only is a United States Bank unnecessary, but the idea of its money being in fact any better than the money of specie paying banks of the States, where its branches are situated, is chimerical, except for the unjust monopoly of being receivable in payment of duties, although not redeemable in specie where so paid; a monopoly, the fruits of which are reaped by foreign stockholders. Such an institution is evidently unconstitutional, and the existence of such a bank is only a proof how pressing emergencies form an excuse for a departure from principle, and how readily good men slide into the foul heresy in morals, that "the end justifies the means."

The constitutional objection to a bank, chartered by the United States, has never been fairly met; and as human reason is just as clear now as ever it was, the time has arrived when the people will again resort to first principles, and test the point by sound and connected argument. Let us trace the history of this institution from its first embryo. In 1780, during the Revolutionary war, the Bank of North America was chartered by the Continental Congress. The inducement was, that the bank was to furnish the army 8,000,000 rations, and 300 hhds. rum, and receive in payment bills of exchange on our Minister in Europe. The subscription or capital was to be in gold and silver. Even then so jealous were the statesmen of that day, that they required "every evening except Sundays, a statement of the cash account, and of notes issued and received, to be delivered to the superintendent of the finances of America." The exigencies of the country were the excuse, and the States were requested to carry into effect its provisions by the State laws. Thus, a United States Bank was known prior to the constitution, and was the subject of debate in the convention. This bank took a charter from Pennsylvania afterwards. The question generally of giving to Congress power to grant acts of incorporation, and also to incorporate a bank, Mr. Madison says was fully considered, and the power refused; and now the question arises, has Congress that power? As to the array of great names in favor of the position, it is enough to say, the present generation are endowed with the same intellectual powers as their predecessors, and

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with the same facts before them, can arrive at as wise a conclusion; and the pressure of State necessity being removed, they have a better prospect of arriving at the conclusions of unbiassed reason. The United States, and its Congress, possess no inherent power or original existence, as a body politic, but is possessed solely of such sovereign powers as the States have by the constitution granted. It results that the omission to grant is a prohibition to the exercise of any of the powers appertaining to a Government. The people of the several States, as independent and sovereign powers, possessed all the attributes of nations, and so much and no more of those attributes as are in terms surrendered to it, by the instrument which created the United States Government, appertains to it.

It is admitted that the United States is a Government capable of sustaining its existence, and not a mere league; but the limits of its authority are delineated in the constitution, without which it has no existence, and beyond which it can exercise no legitimate authority. Let us then look into this instrument for the authority to create a body corporate, and grant to it the monopoly of having its promises to pay in coin received in every quarter of the Union for the duties and dues of the United States, and the use of its revenues to be loaned out on the promissory notes of individuals, and to receive the interest for the equivalent of paying the deposits where required. Power was refused when asked in direct terms, and let us apply the celebrated rule, "to ask the law-giver what he meant," and it is clear that he did not intend that to be implied which he had expressly refused. But independent of this refusal, the terms of the constitution cannot be construed to imply such a power. It has been inferred from the power "to lay and collect taxes for the general welfare." To incorporate a bank, lays no tax for any purpose. Alexander Hamilton, the great originator of such a bank, told the honest truth as to what it was intended to be: "It is to be considered that such a bank is not a mere matter of private property, but a political machine of the greatest importance to the State." Congress has no power to raise money to invest in a bank, any more than in a whaling voyage, or any other money-making business. The term "general welfare" is used to designate the object of raising taxes. If every thing that will bring money into the public purse, is authorized under the power to raise taxes, then charters to fishing companies, fur companies, and companies for all purposes of trade and manufacture, by requiring a bonus, would bring money into the public purse. Yet no such charters were ever applied for. To exact a bonus for a charter is not a tax, but the price of a Government grant of a monopoly; and a monopoly is so much taken from the mass of the people, to be conferred on a privileged class. The right does not result from the power "to borrow money." A bank charter borrows no money. It is a fearful stretch of construction to imply it is a "necessary and proper" way to borrow money, to call into existence a corporation to lend it—not to lend its money, but its promissory notes. The power is to borrow money. Now, by the constitution, Congress may "coin money, and regulate the value thereof, and of foreign coin." No other money was then known. Paper bills of credit were never known as money, but a substitute for it. Who ever heard of engraving money? Neither is it "necessary and proper," or either, to create a corporation to aid in laying and collecting taxes, or to create a lender,

that Congress may borrow. It would apply as well to trust companies, loan offices, and whaling companies. These might be taxed, or they might lend their notes, or even their money; but are they both "necessary and proper?" The people may be taxed, and money may be borrowed of individuals. The States have the right to prohibit the circulation as money of any thing but gold and silver; and yet if Congress have the power to incorporate a bank, they must protect its issues, punish the forgery of them, and thus usurp a clear State right, by implication. Every implication of a grant is confined to such as are direct, and both necessary and proper, in the usual and natural acceptation of the terms, else it leads to unlimited power. Every means becomes in its term an end, and thus justifies the use of means still more remote, until absolute power is attained; and this is pure Federal doctrine. Thus, the United States may borrow money. To borrow money, it is necessary and proper that there should be an accumulation of capital. To accumulate capital, we must have a bank with power to engrave bank notes. There can be no bank of limited responsibility without a charter, and prudent men will not unite in a general responsibility; and therefore, Congress, having the power to borrow money, has, by necessary implication, the power to incorporate stockholders with limited responsibility. Thus, the charter is the means of creating the bank. The bank is the means of collecting the capital and multiplying it thence to ten-fold, and this is the means of enabling the bank to lend, and the United States "to borrow money." There is no power which the most unprincipled ambition might covet, which could not be attained by the same course of reasoning. Apply it to the power to lay taxes; a corporation may be taxed, but to tax we must create it; therefore, under the power to lay taxes, Congress may create a manufacturing company, and impose a tax or bonus. Impressment into the navy, and a conscription for the army, are legalized in the same way. This is Federalism, now in the ascendant. Strict construction is the polar star of Democracy, destined again to emerge from its eclipse.

A corporation is a new creation: it is a person not before existing, and its creation is an act of sovereign power, not delegated. Had it been either necessary or proper, it would have been as expressly granted as it was positively refused. An idea once prevailed that the prohibition, to the States, to emit bills of credit, by implication, conferred that power on Congress, and so it might create a bank to emit paper money. If so, all bills of State banks are unconstitutional. But, in the first place, a chartered bank is not Congress, and delegated power cannot be sub-delegated. But the whole error is founded upon a misapprehension of what "bills of credit" are. They are promises based on the credit of a State, and not notes based on a bank capital. This has been decided and admitted. The argument chiefly relied upon, by the advocates of a national bank, is that of the late Chief Justice Marshall, venerable for his wisdom and experience; but that gift of God which is bestowed upon mankind in every age—the power of reason—is still more venerable. An individual may be influenced by motives, or deluded by the pressure of circumstances; but right reason, when unclouded by prejudice, is more to be relied on than the authority of any human being. Great and good men have maintained some monstrous doctrines. Judge Marshall's argument is all condensed in these words:



"The Government, which has a right to do an act, and has imposed on it the duty of performing that act, must, according to the dictates of reason, be allowed to select its means," and any exception must be proved. This doctrine leads to the inevitable conclusion that Congress is supreme. It must raise an army; conscription is a means; therefore you must show that it is prohibited. It can borrow money; therefore it can incorporate companies, and grant monopolies, within the States, to obtain a bonus. It at once breaks down every barrier of the constitution, and makes the United States a consolidated nation; for of course the States cannot gainsay what the United States select as a means. Had such a doctrine been uttered by the dying breath of Washington, it would be our duty to challenge it, as treason, to the sovereignty of the States.

Your committee conclude that the uncompromising hostility of the Democratic Administration to a National Bank, deserves our most cordial approbation; and that the adoption of that measure, as a leading and fundamental principle of the new Administration, stamps it indelibly, as in its very essence, the legitimate exponent of Federalism, and calculated to inflict upon the country lasting misery and ruin.

Your committee consider the Independent Treasury as strictly in accordance with the constitution, and well calculated to place the commerce, manufactures, and agriculture of the country upon a permanent and prosperous basis. By withdrawing from all connection with trade, it leaves the banking interests to be regulated by the States. By collecting the revenue in the coin of the country, it neither opposes nor fosters these institutions, but leaves them to be estimated by those who deal with them. If their notes are equal to specie, those who possess them have no difficulty in converting them into money when required for duties. If they are not so convertible, then they are not equal to money, and the United States ought not to receive doubtful paper in payment of debts due to the public. There would have been no outcry against the collection of the revenue in money, but from the consciousness that the bills of specie-paying banks are not as good as specie. A specie-paying bank to-day, may be a suspended bank to-morrow. Returns and exhibits have proved no security. A bank which is guilty of a fraudulent issue of paper, beyond its ability to redeem it, will hesitate little to cover that fraud by false statements. When we see the largest bank in the Union, and once graced with a United States charter, circulating the bills of an extinct institution, based on no capital, what confidence can be placed in the mere integrity of banks, or the fidelity of their statements? It then results, that either the United States must guarantee the continuance of the solvency of the banks, or the persons who pay the duties must ascertain it by the actual exchange of the bills for money; a proceeding which can cause no difficulty, except where the banks are really not deserving of credit.

The right to lend money collected as duties or taxes, and thus convert it into notes under any guarantee, is in conflict with the letter and spirit of the constitution.

The next general feature of the Administration of the present Chief Magistrate, deserving the cordial approbation of every slaveholding State, was the determined policy early avowed, to withhold its sanction

to any measure impairing the reserved rights of the South, in relation to her slave population. While we feel an abiding confidence in the readiness and ability of our State to protect its rights by those means which God and nature have accorded to us, and never doubted the noble spirit and elevated patriotism of our citizens, to meet any emergency, and repel any aggression, and are resolved not to discuss rights which we permit no one to question, we must cordially approve that faithful and just adherence to the constitution, which will save our fellow-citizens of other States from endangering the Union by their folly and fanaticism, and involving themselves in a conflict that will not be abandoned as long as Carolina has one faithful citizen left to die in defence of her integrity as a State, her interest, or her honor.

Your committee unite with the Executive in amazement at that delusion which could induce any Southern State to abandon an Administration which adhered most faithfully to the doctrines which they have struggled to maintain since 1800, and hazard their interest by coalescing with a party to which is allied the Federalists and Abolitionists; the advocates of a National Bank and the persevering solicitors of a tariff of protection; and while we rejoice to find ourselves associated on the one side with Virginia, the very nursery of Democracy and State rights, and on the other, by our own offspring, the enlightened people of Alabama, we feel no unkindness towards our immediate neighbors, and are confident, relying on their general good sense and right feelings, that the moment the development of the true character of the combined and allied opponents of Democracy is exposed, they will promptly and cheerfully unite once more with us in sustaining a common cause, with a sincerity and zeal worthy of their elevated character, and their devotion to the rights and interests of the South. And your committee concur with his Excellency in the belief that the people of every section of the Union, firm in their principles, and resolved in their purpose, will once more rally in the great cause of Democracy, and reinstate in office its original and unwavering disciples.

That the late election of President of the United States was corrupt and indecent—wholly unworthy of a sober and discreet public, and calculated to degrade our country in the eyes of the world, observation and rumor, too well founded, it is believed, induces us to lament. The resort to silly pageantries, ridiculous emblems, and vulgar dissipation, was an insult upon the dignity of freemen, and could only proceed from an utter contempt of their intelligence, and a readiness to degrade them to the level of the servile populace of transatlantic monarchies. That funds to a vast amount were lavished, was palpable; and when it is recollected that the prize to be gained by opposition, was the control of the revenues of the Union, the resuscitation of an expiring moneyed institution, whose stock is so largely owned abroad, and, above all, the delusive hope that there was a magic in change that would relieve men from the losses of providence or misfortune, there is great reason to conclude that the elective franchise was polluted by most extensive bribery and corruption. There was a feature too, in the late election, still more odious. Men high in station, and surrounded by the respect of the public, going about the country, inflaming the passions, alarming the fears, and misleading the judgment of the people, was a spectacle degrading to the whole country, degrading to us as a moral and high-

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minded people, and can only be ascribed to that peculiarity in the human character, which leads men, banded together for a common purpose, to do what, as individuals, they would revolt at and repudiate. When men of character would assert, in the face of day, that the distribution of the public treasure, raised by the Representatives of the people and paid away by appropriations made by law, was usurping "the power of the purse," which every one knows is the power to raise money without the consent of the people; and, still more absurd, that they should represent militia men called out to drill, ten days in the year, as a standing army, we are amazed at the self-complacency that did not blush at the deception. No; the unpardonable sin of the present Administration was, its repudiating a chartered monopoly, to receive and loan the public treasure, and retaining it in the Treasury of the United States—its gradual return to a sound constitutional currency—and its resolution not to entangle Government with any money dealers or stock-jobbers—but to leave to the States to regulate their banking institutions as they deem best; and upon the wisdom and policy of this great measure South Carolina concurs with it, and is ready to renew the expression of its sanction and approval.

This State has only to repeat her objections to a tariff for protection; and when the tariff compromise ends, she expects a fair adjustment of a new tariff compromise for revenue, in name and in fact. The result of the election of President has not shaken the faith of South Carolina in her long-cherished principles, and your committee recommend the adoption of these resolutions:

1. *Resolved*, That in the opinion of this Legislature, a bank chartered by the United States, and whose notes are made receivable in payment of the public dues, is contrary to the spirit and intent of the constitution; is not warranted by any express grant of power to Congress; and is unnecessary and impolitic.

2. *Resolved*, That the collection of the revenue of the United States in gold and silver coin, is strictly constitutional, and well calculated to preserve a sound circulating medium; and the keeping of the public funds in the Treasury of the United States, instead of intrusting them to the custody of any incorporated company, is in conformity to the provisions of the constitution, and is politic and safe.

3. *Resolved*, That the power given to Congress to lay and collect taxes, duties, and imposts, does not authorize Congress to collect money, except for revenue, and that a tariff to protect the industry of one portion of the community, at the expense of another, is a violation of the spirit and letter of the Constitution of the United States; and when such a case occurs, the several States will decide for themselves the mode and measure of redress.

4. *Resolved*, That the general principles and policy of the administration of Martin Van Buren, are approved by this Legislature, and are well calculated to preserve the perpetuity of the Union, by an equal and just protection of the rights of every section; thus avoiding the necessity of any State resorting to her own means of self-defence, to secure unimpaired her institutions and her rights.

5. *Resolved*, That this State has seen, with great satisfaction, the steady and consistent adherence of her Senator, John C. Calhoun, to the well-known, avowed, and mature principles of the State, and they accord to him their deliberate and strong approval, for vindicating and upholding the settled and well-

known doctrines of the State from which he holds his high commission.

6. *Resolved*, That the people of this State have cause to congratulate themselves, that the party feuds which lately weakened the vigor of its counsels, have happily ceased, and that South Carolina now presents to the enemies of her policy and peace, an undivided front; and is prepared, as she is resolved, to repel, by all proper means, every aggression upon her rights as a sovereign republic, the instant that aggression is attempted.

7. *Resolved*, That the Governor be requested to transmit copies of the foregoing Report and Resolutions to our Senators and Representatives in Congress, with instructions to submit them to that body.

*Resolved*, That the House do agree to the report. *Ordered*, that it be sent to the Senate for concurrence.

By order: T. W. GLOWER, C. H. R.

IN THE SENATE, December 18, 1840.

*Resolved*, That the Senate do agree to the report. *Ordered*, that it be returned the House of Representatives.

By order: WM. E. MARTIN, C. S.

On motion by Mr. PRESTON, the resolutions were laid on the table, and ordered to be printed.\*

#### HOUSE OF REPRESENTATIVES.

MONDAY, January 25.

#### Treasury Notes.

Mr. DUNCAN being entitled to the floor, announced that he should, in the course of the remarks he intended to make, take the liberty of answering various charges which gentlemen of the Opposition had thought proper to make against the Administration. Whether these charges had been made in order or not, he would not then undertake to decide; but as they had been made, whether in order or not, he considered it his right, nay, his imperative duty, to reply.

Mr. D. then proceeded to say that the whole history of nations and Governments satisfied him that never, since the establishment of civil institutions, had there existed a Government without two parties, one desirous for it to possess more power, and the other less. He then explained the nature of Monarchical, Aristocratical, and Republican forms of Govern-

\* The adoption of this Report, and the passage of these Resolutions, and the formal manner in which they were communicated to the Senate, gave great gratification to Mr. Van Buren, and to the country. They sounded like the reconciliation of South Carolina to the Union. For many years that State had held off from united action with the Federal Government—nullifying some of its laws, and refusing to join in the Presidential elections. Now all causes of discontent seemed to be removed, especially the apprehended danger to slave property, a civic reunion of feeling had occurred, and the general gratification was sincere at seeing that brilliant little State, illustrious for so many historic recollections, gracefully abandoning her attitude of isolation, and freely coming into line again with her sisters.

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ment, the latter of which was the form under which we lived, and by which the people had the right to make, adjudicate, and execute their laws, either by themselves or by their Representatives.

In this Republican form of Government the people had a privilege, which was recognized by the constitution, and which could not be wrested from them. That privilege was the right of instructing their Representatives to carry out their will. Therefore he contended when any Representative was elected, or officer of whatever character or description, if he was elected upon any question, or test, or measure, or principle, such officer or Representative was bound to carry out such question or measure on which he had been elected. Such was the bounden and sacred duty to the people who elected him. He was bound by every principle of government and constitutional law, to support that measure for which he had been elected. And whenever any officer, whether the President or the humblest individual, had been thus elected, and failed to perform this duty, it was a gross breach of faith to the people.

After some further remarks on this head, Mr. D. said his object was to lead to the inquiry whether, at the recent election, any special instruction had been given by the people through the ballot boxes, whether in relation to this or the coming Administration.

Mr. D. then proceeded to notice the report of the Secretary of the Treasury and the estimates furnished by that officer for the present year.

After reading the numerous items, Mr. D. said it would appear from the report of the Secretary, that the estimated balances in the Treasury at the end of the present year, after making every payment, would be \$824,273.

But the question had been asked, that as there was to be this balance in the Treasury at the close of the year, what necessity was there for the issue of these Treasury notes? His answer was, that a portion of the receipts referred to by the Secretary of the Treasury would not probably be paid in, such, for instance, as the item for the Bank of Natchez. But there was another reason, and that was the great inequality of receipts, and the inequality of the expenditures in the course of the year. It had been already shown, that, during the present quarter, a great amount became due before the funds for meeting the demands had been paid in. It therefore became necessary that a temporary provision should be made, to enable the Treasury to anticipate for a short time its receipts. But let gentlemen wait until the end of the year, when the receipts and expenditures should be put together, and they would then see how much reason they had for their objections.

It might also be asked why such an amount of Treasury notes had been asked for in the bill. His answer was, that considering the great revulsions of trade, and the fluctuation

of money matters, it was better to provide a sufficiency at once.

The Secretary of the Treasury informed them, that during the last year, the Treasury had met every demand which had been made upon it. Now some gentlemen of the Opposition had thought proper to deny this, and to assert that the Government had been going on *tick*. He could, however, boldly assert that such had not been the case, and he felt assured that he could prove what he said to the satisfaction of the House.

Mr. D. then alluded to the charges made by Mr. BARNARD on this subject, who had alleged that the work on the public buildings in this city had been suspended, and the payment of money due to the workmen postponed until the first of April next.

In order to be satisfied as to the truth of this charge, Mr. D. said he had addressed a letter to the Secretary of the Treasury on the subject, and a bill was read at the Clerk's table. The answer of the Secretary was also read, and stated in substance, that all the work done on the public buildings of this city, during the last year, to the best of his knowledge, had been paid for as soon as done. But the appropriation having been exhausted, as a matter of necessity during the present month, he believed the Committee on Public Buildings had received an application from some laborers to be permitted to go on with their work at their own risk, until a further appropriation should be made. The Board of Commissioners had not interfered in the case, and neither they nor the Department had proposed any reduction of wages.

Thus, said Mr. D., the appropriation having run out, the laborers themselves, at their own risk, during the present month, have made the application to be permitted to go on with their work. So much for the Government going on *tick*.

Mr. D. then gave a similar satisfactory explanation in reply to the objection raised in relation to the works at Old Point, both by Mr. BARNARD and Mr. WISE. After having read, at the Clerk's desk, a letter from the War Office on the subject, and which placed the matter in its proper light, Mr. D. said it was thus he disposed of the objection of the gentleman from New York, who unfortunately had gone off half cocked. The gentleman from Virginia had also done the same, although, in a general way, he took fire before he went off. Mr. D. then proceeded to reply to other objections raised by Mr. BARNARD in relation to the great amount alleged to be owing by the Government. He (Mr. D.) denied the correctness of the conclusions to which that and other members had come; and he desired to know if the Opposition fancied the people would be so foolish as to take their bare words, without facts or figures, against the facts and figures of the Secretary of the Treasury.

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If there had been any expression at the ballot box against this mode of raising money by Treasury notes, he (Mr. D.) would acknowledge that it ought not to be done. So with a National Bank, and he would be the last man to support either against the will of the people. But he denied that there had been any such expression against the measure contemplated by the bill, and that being the case, he considered it the duty of the Democratic party to carry out the principles by which they had so long been bound.

Mr. D. then proceeded to make some remarks as to the principles of the coming Administration, and the sacred duty of all officers, whether high or low, to act faithfully to the people who elected them.

In the course of his speech, Mr. D. alluded to the conduct of General Harrison, and the course pursued by him at a certain meeting in Ohio. At that public meeting, said Mr. D., you find General Harrison telling the assembled thousands that he was opposed to a National Bank, on the ground that Congress has not constitutional power to incorporate it. But in the very same speech, and before the same assembled thousands, he tells them that if Congress should think proper to pass such a bill he would not veto it.

Now, said Mr. D., look at this. Here on the 4th of March next, General Harrison will be sworn into office. He will lift up his hand and swear before God that he will faithfully support the constitution. Yes, his lips will press the Holy Evangelists, and he will solemnly declare that the constitution will be preserved inviolate. And yet, according to his own words, should Congress see proper to pass a bill, which he believes to be *unconstitutional*, he will not veto it.

Mr. BOND here rose, and desired to know to what speech his colleague alluded.

Mr. DUNCAN was understood to say that he believed it was the speech at Cleveland.

Mr. BOND said he would undertake to say, that upon the Sub-Treasury bill, General Harrison had declared before the assembled multitude, that so far as he could, he would have that measure repealed, because he was utterly opposed to it.

After some remarks from Mr. DUNCAN in reply, which were not distinctly heard—

Mr. BOND stated that he would undertake to say that General Harrison had not said he would not exercise the constitutional power of veto. But he had attested over and over again, that he would hesitate before he exercised that power on a mere question of expediency. Mr. B. had never heard General Harrison say that he would relinquish the veto power upon what he believed to be against the constitution. He (Mr. B.) believed that his colleague was mistaken when he said that Harrison had, at any time, failed to give an expression of his opinion on any public measure. He was above concealment; and if there was any man in the nation

whose heart was in his hand, it was William Henry Harrison.

Mr. DUNCAN. Yes, his heart is in *both* hands, or he has a heart in each hand, or that his heart has been in the hands of a committee, as I will presently show.

Mr. BOND again asserted that General Harrison had never refused to give his opinion on any public measure.

Mr. DUNCAN wished to understand from the gentleman, whether he meant to say that Harrison had ever answered through the newspaper columns.

Mr. BOND repeated that the General had no concealment.

Mr. DUNCAN. That is no answer to the question. I ask if General Harrison has ever thought proper to place his hand to any explanation in the newspapers.

Mr. BOND could not say whether the General had ever placed his hand to such explanation or not; but whenever he had been called on by letter, he had, Mr. B. believed, given an answer. It was not to be expected that he would answer every letter containing the same thing over and over again, but he had given an answer in a satisfactory way.

After some further conversation, which, owing to the disorder which prevailed, could not be reported with accuracy—Mr. DUNCAN asked Mr. BOND if he could furnish a single document signed by Harrison within the last year, either in relation to a United States Bank, Abolition, the assumption of State debts by the General Government, the distribution of the public lands, or any such important questions, and in which he, General Harrison, had given a final answer to such questions. Let the gentleman say yes or no.

Mr. BOND said that when he had such serious interrogatories propounded to him, he took it for granted that it was reasonable for him to be allowed time to make a response.

Mr. DUNCAN finally proceeded with his remarks, in which he undertook to comment upon the military and other talents of General Harrison in a severe manner.

For this Mr. D. was called to order by members of the Opposition. He replied, that he would contrive to keep in order, but if he was to be called to order for holding up the military glories of Harrison, why were not other members called to order when they called Van Buren a jackass?

Without concluding, Mr. D. gave way for a motion that the committee rise.

IN SENATE.

WEDNESDAY, January 27.

*Permanent Prospective Pre-emption Law.*

The bill to establish a permanent prospective pre-emption system, in favor of settlers on the public lands who shall inhabit and cultivate the

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same, and raise a log-cabin thereon, was taken up, the question being on the motion of Mr. CRITTENDEN to recommit the bill, with instructions to report a bill for the distribution of the proceeds of the sales of the public lands among the States.

Mr. LUMPKIN said he rose to make but a very few remarks. As usual, he felt indisposed to address the Senate, whenever his views were presented by others; but upon the present occasion, he considered it his duty to speak briefly for himself. The subject had, in its progress, assumed a magnitude, and gathered around it an importance, rarely equalled on the floor of the Senate. The original proposition or bill, which gave rise to this discussion, provided, and was simply intended to secure to actual and humble settlers on the public lands, the right of pre-emption to one hundred and sixty acres of the public land, at the Government price of \$1 25 per acre. But the various topics of discussion introduced here, had embraced almost the entire range of party measures, and party politics, known to our country. For himself, he had neither taste nor disposition to enter upon a partisan controversy on the floor of the Senate. Ripe years, and an abiding sense of the dignity of the station which he had the honor to occupy, forbade his entering on a course which might change the appropriate sphere of the Senator into that of the mere partisan. If he felt himself prepared to enter upon the discussion of all the subjects brought into this debate, he should certainly at this time forbear from doing so. He felt none of that spirit of party triumph which we have seen exhibited more than once in this chamber, since the commencement of the present session. No, sir, (said Mr. L.,) taking the late elections for a test, I am in the minority in my own State, and in the Union. Well, if the people will it, be it so. But if he was in a majority, he would sound no shouts of triumph here; he would wear his honors with becoming modesty.

He would only say, that he had always thought, and still thought, that the best possible disposition which could be made of the public domain was for the Government to sell it, at a fair price, to actual settlers, in small quantities—in quantities suited to the wants and abilities of the settlers. He had long since been disgusted with the auction system; he had witnessed the operations of that system. It secured to capitalists, moneyed combinations, and speculators, the whole of the best lands, to the exclusion of honest, humble industry. He was pleased with the prospective character of this pre-emption bill. It was a call to the poor and needy, but industrious and enterprising, from every part of the country, to go forward, cultivate, work, multiply, and replenish the earth.

Sir, (said Mr. L.,) I would not only open the door to male citizens of the United States over twenty-one years of age, but to male and female over and under twenty-one years of age; and neither would he require that they should be

naturalized citizens. Actual *bona fide* settlement and improvement is all that he would require, in addition to the prompt payment of the Government price for a small piece of land. This policy would benefit the Government, as well as administer to the wants of humanity. It provides for the poor and the needy, who are willing to work and cultivate the soil, whether male or female, naturalized citizen or foreigner. He had no apprehensions of evil consequences from the husbandman. No, sir, (said Mr. L.,) this fertile, this highly favored land has no evil to apprehend from the tiller of the soil. Agricultural pursuits, properly conducted, never fail to make the best of citizens. His only hope for the permanent prosperity of this country was based upon the virtue, intelligence, and industry of our agricultural population.

Mr. ANDERSON briefly replied to some of the remarks of Mr. MANGUM yesterday.

FRIDAY, January 29.

*Permanent Prospective Pre-emption Law.*

The bill to establish a permanent prospective system, in favor of settlers on the public lands who shall inhabit and cultivate the same, and raise a log-cabin thereon, was taken up, the question being on the motion of Mr. CRITTENDEN to recommit the bill, with instructions to report a bill for the distribution of the proceeds of the sales of the public lands among the States.

Mr. TAPPAN rose and addressed the Senate as follows:

Mr. President: Before I proceed to remark upon the extraordinary attack made by the Senator from Kentucky upon my colleague and myself, I wish to ask that Senator who it is that he charges with "having made a proposition to reduce wages."

Mr. CLAY said he did not mean to be understood as saying that any one had made such a proposition.

Mr. TAPPAN. Such is the language you used, sir.

Mr. CLAY. I did not intend to charge any one with more than sustaining in argument a policy, the inevitable tendency of which would be to reduce wages; and this was done by many gentlemen whom I do not think I am called upon to name. I do not recollect using the word proposition.

Mr. TAPPAN. I am satisfied, sir, with this explanation; the Senator's construction of arguments made by others does not affect me. The Senator from Kentucky, on yesterday, charged my colleague and myself with voting for a proposition, the effect of which would be to give away 160,000,000 of acres of land, justly belonging to Ohio, for 800,000 acres, and ordered us to go home and account to our constituents for this gross sacrifice of the interests of Ohio. This charge of the Senator is not founded in truth, as I shall show; but let me

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not be misunderstood. I do not say that the Senator has intentionally stated a falsehood on this floor; he would not do this, and yet it is strange that he, or any other less experienced legislator, should so misconceive our vote on that occasion as he seems to have done. The case was this: the Senator's colleague (Mr. CRITTENDEN) had moved to recommit the bill, with instructions to strike out all after the enacting clause, and to insert what has gained the name of "Mr. CLAY's land bill," upon which the Senator from South Carolina nearest to me (Mr. CALHOUN) moved to amend the motion of the Senator from Kentucky, by substituting his (Mr. CALHOUN's) bill for disposing of the public lands to the States, so that if the motion to recommit should prevail, the plan of the Senator from South Carolina should be reported back to us instead of the Kentucky Senator's bill. Now, who does not see that the question here, was not whether we should agree to adopt either of those projects; but it was a mere question of preference, and surely an opinion may be given in good faith, that of two plans, one is better than another, without any intention of adopting either. Such was this case; of the two plans, I preferred the one offered by the Senator from South Carolina, and so voted, not with a view of expressing any approbation of the plan proposed by the Senator from South Carolina, but to defeat the motion to refer with instructions, made by the Senator from Kentucky on my right. These are the views in which my colleague and myself concur, as was expressed by him on yesterday, in his reply to the remarks of the Senator from Kentucky, (Mr. CLAY;) and I think if the question should ever again come up while I have the honor of a seat here, I shall continue to give the same preference, notwithstanding the denunciation of the Senator from Kentucky. I give no opinion upon the abstract merits of the plan proposed by the Senator from South Carolina, because it is not and has not been before us on the final question of adopting it; but I will say that I am not inclined to make important changes in our land system; that system has heretofore worked well, and I see no necessity for a radical change of it. Sir, the Senator charges us upon this side with "opposing in advance the measures of the next Administration"—with making war upon it; and he quotes Shakspeare, "Come on McDuff," as though we were actually in battle array against him. We have opposed the Senator's unconstitutional project for distributing amongst the several States the revenue arising from the public lands, and Senators upon this side have given as their opinion, and have demonstrated, that a special session of Congress will not be necessary. We have been told by Senators on the opposite side that these things, with some others, would be supported by the next Administration. We have seen and heard the Senator from Kentucky, when he has assured us that his land bill (as he calls it) "would pass" when that gen-

tleman and his friends came into power; that unless we repealed the Independent Treasury bill, the next Administration would call an extra session of Congress to repeal it. We have also heard the Senator describe, in his graphic way, how the next Administration would make a clear sweep of all office-holders, with probably no exceptions; but we have been ignorant of the Senator's authority to pronounce *ex-cathedra* upon the course to be pursued by General Harrison; and, for myself, I confess, that having some knowledge of General Harrison, I had my doubts whether he was to be governed, dictated to, and led by the nose by the honorable Senator, as he seemed to promise us. He exhibited to us no authority for the assumption of the dictatorship. If the Harrisburg Convention, in nominating one of the gentlemen and rejecting the other, did secretly determine that while one should be viceroy over the good people of these United States, the other should be viceroy over him, how were we to know that important fact? You gave us no evidence of this. We are excusable then, I should think, for opposing such measures as the Senator's land bill, which we think unconstitutional, without being chargeable with anticipated hostility to the next Administration.

But the Senator bids us go home! and account to our constituents for our conduct here. Go home! We obey no such orders. We submit to no such dictation. Who gave the Senator from Kentucky authority over us? Autocrat of Kentucky, let him issue his orders there to his obsequious slaves; but with Ohio and her representatives he has nothing to do. Sir, I repel with scorn this matchless insolence.

Here Mr. CLAY called Mr. TAPPAN to order, and he sat down.

The VICE PRESIDENT, after some remarks which we did not hear distinctly, said that it was out of order to use the word insolence in the way Mr. TAPPAN had used it.

Mr. TAPPAN rose, and continued. Sir, I will repel insolence and insult, come from what quarter it may.

Mr. CLAY then rose, and declared that in what he had said, he had not the remotest intention of insulting the Senators from Ohio; that in using the words, go home, &c., he meant no more than to advise those Senators to consult their constituents on their return home as to their wishes upon this great question of disposing of the public lands.

Mr. TAPPAN then observed: The Senator's explanation is satisfactory. From the vehemence of his manner, and the loudness of his intonation, I thought the Senator in earnest, and that he meant what he said. It seems that in this I was mistaken. I therefore let that pass; I will not knowingly treat any Senator with disrespect; my age and my habits lead me to a courteous demeanor towards all with whom I have business to transact, and I will not willingly deviate from this course; but insolence and insult I shall not put up with, and I am

glad to find that on this occasion nothing of that nature was intended.

Mr. President: having disposed of this matter, (without intending to engage at large in this debate, so protracted and interesting,) I will express my views on one or two points only. The Senator from Kentucky (Mr. CLAY) read to us the first paragraph of the 8th section, 1st article, of the constitution: "The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States;" and gave us his opinion that this taxing power did not authorize Congress to raise money for distribution among the States. I coincide fully with the Senator in this opinion, but does he not perceive, that by this sound construction of the constitution, he concedes to us the whole matter in controversy as to his land bill? I know how the Senator thinks to get this power: it is not in this clause, indeed, but he tells us it is contained in these words:

"The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

From the grant of power to dispose of the land, he infers the power to dispose of the proceeds of the land. Congress has, indeed, by this clause, the power to dispose of the public land for the benefit of the United States; and it is under this clause alone that the constitutionality of all the grants of public lands which have been made to the individual States, can be maintained. If we admit (which I do not, however) that by this clause in the constitution, Congress has the unlimited power to do whatever it pleases with the territory of the United States—that it may grant the whole or any part to some or all of the States, that it may give it away to actual settlers; or, that it may sell and dispose of it for money, making it an object of revenue; still, Congress cannot raise revenue for the purpose of distribution. The public lands are sold for money. A part of the revenues of this Government are derived from that source. It matters not whether you raise your revenue from the customs, from the sale of your ships, from a tax on land, or the sale of your land; when that revenue reaches the public Treasury, there is no ear-mark on it to distinguish the quarter from which it came. It is the money of the nation, to be used for national purposes. If there is any clause in the constitution which gives you authority to make a distribution of it amongst the States, it is the clause first quoted; but this, says the Senator, and so say I, contains no such power. Congress is not required by the constitution to sell the public lands to make the territory of the Union an object of revenue. The manner of disposing of that territory is nowhere expressed. It is implied only that Congress shall dispose of it for the benefit of the whole, and no

select part of the Union. Congress have thought best to sell their land for money; have for more than forty years thought that to raise a part of their ordinary revenues by thus disposing of it, was to execute their power of disposing of it in the manner best calculated to promote the interest of the nation. I will not argue the question, whether it might not have been as well to have authorized Congress to make a division by the States or otherwise, of the money received for the land, for we are not making a constitution; but I will say that a power to grant or sell land does not carry with it the power to dispose of the money received for such land—when the land is sold, the power to dispose of it is executed; for the power to dispose of the money you must look elsewhere.

As to the bill before the Senate, it varies but little from what has become the settled policy of this Government—it proposes that instead of temporary laws on this subject, we pass a permanent act, permanent as it can be, to remain until the wisdom and experience of our successors may change or repeal it. We should find it difficult to prevent people from occupying the public land on the extensive frontier; there is a large class of men who have been the pioneers of civilization and settlement in this country for many years, probably ever since the settlement of the country commenced—they are the Daniel Boones who choose to keep a little in advance of law and gospel both; they subsist more by hunting than the labors of agriculture; yet they build cabins, and clear and plant fields, and are always ready to sell their improvements to the man who moves on the frontier with his family and his stock to make a permanent settlement. It is a great advantage to the settler in a new country who has a family to provide for, to find a cabin and a clearing already made for him, and purchasable at a moderate price; and what injury does the public interest sustain by granting these pioneers the exclusive right to purchase the land they occupy? Before this privilege was granted to them, it was quite common for mean and sordid men to hunt out the places so occupied, and purchase them at the land office, not for the sake of getting better land than they could find elsewhere, but that they might appropriate to themselves the hard earnings of the poor pioneer for nothing. Protect the poor man by a pre-emption right, and he would soon gain money enough to pay for his land; or, instead of being a prey to the heartless speculator, this latter would have to purchase his improvements, since he could not drive him off, and take forcible possession of his property. I have said that pre-emption laws, instead of being injurious to the public, are highly beneficial. They greatly facilitate the settlement of your territories, by opening the road to your lands to men with families and property, whose habits have not fitted them for settling in the wilderness. These men compose the great agricultural population of the West. Some men

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think, sir, that to allow land to be selected, the choice tracts to be taken up for the minimum price, is granting a great favor to the poor pioneer. I do not think so; the man who will take his axe and his rifle, and go into the frontier, forests, or prairies; far from roads, from mills and schools, and places of worship; far from all the comforts and advantages of society, pays for the pre-emption right you give him very dearly. Yes, sir, the settler, in a new country, pays the value of the best land in the privations he endures, in the hardships he encounters, and the labor he performs.

On this matter I must be allowed to speak from experience; and I know that, except in rare instances, from peculiarly fortunate location, the first settler would not be paid for the toil and suffering he has to endure, by the gift of a quarter section of land. I hear Senators speak of land in a state of nature worth from ten to fifty dollars per acre; I have never seen such land; it is not to be found in any of the fine bottoms of the West; it is an El Dorado, which exists only in the fancy.

It has been proved, I think, that Government does not get much more than the minimum price for land at the public sales; so that there is nothing to balance against this natural and long-practised mode of settling your public lands. I am therefore in favor of this bill—of adopting it into our permanent land system.

Mr. LINN followed in explanation, and also urged the propriety and necessity of appropriating money for the purpose of putting the nation in a position to maintain her honor, and defend herself from foreign aggression, instead of dividing her revenues among the States.

Mr. TALLMADGE contended, that by dividing the money among the States to be devoted to the purposes of internal improvement, the best means for national defence was adopted.

Mr. BUCHANAN said he had but a very few words to say. The Senator from Kentucky, (Mr. CLAY,) in the course of his remarks to-day had asserted that Senators friendly to the present Administration had argued at the last session in favor of the reduction of the wages of labor. When called upon by the Senator from Ohio, (Mr. TAPPAN,) to mention the names of any such Senators, he declined to comply with the request, he (Mr. B.) presumed from courtesy to those implicated in the charge. His speech at the last session in favor of the Independent Treasury Bill, so far as related to the wages of labor, had been so extensively misrepresented, out of this House, that even at the risk of having it suggested that he had made an application of the remark of the Senator to himself, he rose to disclaim any such argument. He had never risen in the Senate, he never could rise in the Senate, and use an argument in favor of reducing the wages of the poor man's labor. He was incapable of advocating any such proposition. He had disclaimed any such argument, over and over again at the last session, and he should ever disclaim it as often

as it might be imputed. If the Senator from Kentucky, or any other Senator, should at any time think proper to examine his speech, and attempt to fix such a charge upon him, he should at all times be prepared to repel it, and prove that no such doctrine was contained in his speech.

The Senate adjourned.

SATURDAY, January 30.

*Permanent Prospective Pre-emption Law.*

The bill to establish a permanent prospective pre-emption system, in favor of settlers on the public lands who shall inhabit and cultivate the same, and raise a log-cabin thereon, was taken up, the question being on the motion of Mr. CRITTENDEN to recommit the bill, with instructions to report a bill for the distribution of the proceeds of the sales of the public lands among the States.

Mr. CALHOUN, who was entitled to the floor, replied at length to the arguments of Messrs. CLAY of Kentucky, and WEBSTER, and demonstrated the unconstitutionality of the distribution measure, and vindicated the measure of cession from the attacks of those gentlemen.

He was followed in the debate by Messrs. MANGUM and WEBSTER, and replied to those gentlemen.

Mr. YOUNG then took the floor, and after a few explanatory remarks, proposed as an amendment to Mr. CRITTENDEN's motion, to substitute for it the bill of Mr. CALHOUN, proposing to cede the lands to the States within which they lie, upon certain conditions, which he hoped would be ordered to be printed, and the further consideration of the subject postponed until Monday.

Mr. CLAY, of Alabama, assented to this course, but hoped as the debate on this question had already lasted four weeks, that it would be finally disposed of on Monday evening.

And the Senate then adjourned.

MONDAY, February 1.

*Permanent Prospective Pre-emption Law.*

The bill to establish a permanent prospective pre-emption system, in favor of settlers on the public lands who shall inhabit and cultivate the same, and raise a log-cabin thereon, was taken up, the question being on the motion of Mr. CRITTENDEN to recommit the bill, with instructions to report a bill for the distribution of the proceeds of the sales of the public lands among the States, which Mr. YOUNG had on Saturday proposed to amend by a motion to substitute for it the bill of Mr. CALHOUN, proposing to cede the lands to the States within which they lie, upon certain conditions.

Mr. YOUNG addressed the Senate at length in favor of his motion, and in defence of the pre-emptive policy.

Mr. FULFORD followed on the same side, who



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advocated the cession bill as a measure of justice due to sovereign States.

Mr. HUBBARD then obtained the floor, but, it being late, yielded to a motion for adjournment.

And the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, February 1.

After the journal was read,

The Hon. HINES HOLT, of Georgia, elected to fill the vacancy occasioned by the resignation of the Hon. W. T. COLQUITT, appeared, was qualified, and took his seat.

#### IN SENATE.

TUESDAY, February 2.

#### *Counting the Electoral Votes.*

Mr. PRESTON, from the Joint Committee appointed on the subject of counting the electoral votes, reported the following resolution, which was read:

*Resolved*, That the two Houses will assemble in the Chamber of the House of Representatives on Wednesday, the 10th inst., at twelve o'clock, and the President of the Senate shall be the presiding officer; that one person be appointed a teller on the part of the Senate, and two on the part of the House of Representatives, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote and the persons elected to the two Houses assembled as aforesaid, which shall be deemed a declaration of the persons elected President and Vice President of the United States, and, together with a list of votes, be entered on the journals of the two Houses.

The resolution was agreed to, and the VICE PRESIDENT was directed to appoint a teller on the part of the Senate, and

Mr. PRESTON was accordingly appointed.

#### *Permanent Prospective Pre-emption Law.*

The bill to establish a permanent prospective pre-emption system, in favor of settlers on the public lands, who shall inhabit and cultivate the same, and raise a log-cabin thereon, was taken up, the question being as follows:

Mr. CRITTENDEN had submitted the following motion:

*Resolved*, That the bill be recommitted to the Committee on Public Lands, with instructions to report amendments thereto, to the following effect:

1. To distribute the proceeds of the sales of the public lands among the several States of the Union, in just and equitable proportions.

2. To grant to actual bona fide settlers upon the public lands the right of pre-emption, to any quantity thereof, not exceeding one half section of 320 acres, including the place of settlement, at the minimum price of \$1 25 per acre, with such provisions as shall limit this right of settlement and pre-emption to actual bona fide settlers whose estates, at the time of

settlement, shall not exceed the value of \$1,000; and, furthermore, with such provisions as shall effectually exclude the wealthier speculators from all benefit under this law, and shall prevent them from interfering with, or participating in, the privilege and right of settlement and pre-emption, which are hereby granted and intended for the sole advantage of the needy and honest settlers and cultivators of the soil.

Mr. YOUNG, of Illinois, rose, and said: I rise, Mr. President, for the purpose of proposing to amend the motion of the Senator from Kentucky, (Mr. CRITTENDEN,) to recommit the bill of the Senator from Missouri, (Mr. BENTON,) by striking out all after the word *report*, in the second line after the word *resolved*, and substituting the proposition of the Senator from South Carolina, (Mr. CALHOUN,) with two or three slight alterations, an additional section, which we adopted with his concurrence, as a measure just and equitable to the *old* States, and by far more acceptable to the *new* than that of the Senator from Kentucky, and against which neither, in my judgment, can have any reasonable cause for complaint. I have waited, sir, in the hope that the Senator himself (Mr. CALHOUN) would, as on a former occasion, have brought it forward as the antagonist proposition to that of the Senator from Kentucky, (Mr. CRITTENDEN,) upon which the probability now is we shall soon be called to vote. I trust, however, that he will continue to regard himself as its legitimate author, and in case of necessity, come forward to the rescue, and defend its principles, as he has heretofore done with such distinguished ability against all assaults, from whatever quarter they may come.

I feel myself impelled, Mr. President, as a matter of duty to the State which I in part represent, in consequence of resolutions of instruction adopted by the General Assembly on this subject some year or two ago, and which have not been repealed, to my knowledge, to bring this measure forward as the one most desired by that State, and to urge its adoption in the best manner I can, in preference to any proposition whatever, which has for its object distribution simply, and which does not carry along with it a just regard for the future settlement, population, and advancing prosperity of the country embraced within the limits of the new States. Sir, in many respects, which I will endeavor to point out before I sit down, I regard the consequences involved in the proposition of the Senator from Kentucky, (Mr. CRITTENDEN,) as decidedly hostile to the best interests of Illinois, at least, and that her ratable proportion of the proceeds of the sales of the public lands would but poorly compensate for the injuries that would in the end be inflicted under the operation of such a system. But I will commence with the proposition of the Senator from South Carolina—and what, Mr. President, does it, when analyzed, propose?

1st. To dispose of the lands to the new States

in which they are situated, reserving, in future sales by these States, sixty-five per cent. of the gross proceeds to the United States, the States being thereafter chargeable with the expense of completing the surveys, extinguishing Indian titles, and for selling and otherwise managing the same.

2d. To secure the principles of graduation in the price, pre-emption to the settlers, and a final cession after a limited period, of the refuse or unsalable lands to the States in which they are respectively situated.

3d. To provide for the transfer of the evidences of title from the seat of the Federal Government to the seats of government of the new States to which they properly belong.

4th. To provide for the settlement of the country without restriction, as well as the sale of the lands, as a source of revenue to the United States.

5th. To remove the prohibition which restricts the right of the purchaser to two quarter sections, or forty acre tracts only, and to permit the entry of such tracts in future, in like manner as other legal subdivisions of the public lands.

6th. To annul the restriction imposed upon the new States by compact, by which they are prohibited from taxing the public lands for five years after the date of purchase from the United States.

7th. To cede to the State of Tennessee all the unappropriated lands belonging to the United States within the limits thereof, for the reason that they are unsalable, and of little or no value to the community at large.

And 8th and lastly. To set apart the sixty-five per cent. secured to be paid to the United States, for the exclusive purpose of increasing the navy, and erecting fortifications for the common defence of the country.

These, Mr. President, are the leading features of the measure originated by the Senator from South Carolina several years ago, and again presented by him for our consideration at the present session. It is one with which the *old* States ought to be satisfied as a financial measure.

The proposition comprehends within its entire scope, the disposition of 154,497,765 acres of the public domain. Of this quantity, 1,776,210 acres are situated in Ohio; 4,896,494 acres in Indiana; 19,059,797 acres in Illinois; 81,811,840 acres in Missouri; 19,910,140 acres in Alabama; 11,543,826 acres in Mississippi; 16,983,408 acres in Louisiana; 29,988,784 acres in Michigan; and 28,027,804 acres in Arkansas. In all, nine States; and a grand total of 154,497,765 acres, as before stated, up to January 1st, 1840. This, sir, is the quantity, no more nor less, according to the last report of the Commissioner of the General Land Office on that subject. The lands in the Territories, and those in the wide expanse of the West, extending from the western borders of Missouri and Arkansas,

across the Rocky Mountains to the Pacific Ocean, and to latitude 49 deg. north of the Territories of Iowa and Wisconsin, encircling within their range by far the greater part of the public domain; and by the estimate of which, the *billions* of acres mentioned by the Senator from Kentucky (Mr. CLAY) are produced; still left subject to the existing arrangement—to the old, well-tryed, and well-approved system of operation which has afforded the occasion for so much eulogium here of late, and from a departure from which so much mischief seems to be apprehended. Of every hundred thousand dollars arising from these sales, within the limits of any one State, sixty-five thousand dollars, free from all charge, is to be paid into the public Treasury, and the remaining thirty-five thousand, after paying for the completing of surveys, extinguishing Indian titles, salaries of officers, land office charges, and incidental expenses, is to be paid into the State Treasury. What these expenses would amount to I have not the means of ascertaining; they would, of course, differ according to the different condition of things in the several States; but I presume that no Senator will undertake to say that the residue, whatever it might be, would be an unreasonable compensation to the States for the service proposed to be performed. But it has been urged as an objection, that the States might, and would, perhaps, refuse, upon settlement, to pay over to the United States this sixty-five per cent. of the proceeds of the sales, as provided for, and the deposit act of 1836, by which about \$28,000,000 was distributed among the States, although in form a deposit, has been cited in illustration of the argument.

To obviate all difficulty arising out of such a supposition, whether ill or well founded, it is proposed, instead of an annual adjustment of the account, as was provided in the original bill of the Senator from South Carolina, (Mr. CALHOUN,) to make monthly payments as the sales progress, at the most convenient points, where the moneys of the United States may be receivable. There is no occasion, nor is it intended, that the sixty-five per cent. shall go into the State Treasury at all. The payments will continue to be made in all respects as at present, by the receivers of the land offices, and there will be the end of it, without further difficulty or adjustment. For example, suppose there is a land office at Quincy, Illinois, the town of my residence, and a Sub-Treasury, or a branch of a United States Bank in St. Louis, Missouri. Now, sir, all the receiver at Quincy has to do, is to make his deposits monthly, at St. Louis; take receipts for the amount paid to the Sub-Treasurer or Cashier, and the whole matter, as to the Government interest, is in this simple but prompt manner accomplished, without the necessity of any settlement whatever; except that it may be proper for the register and receiver of the land office, in addition to the reports which

may be required by the State, to forward duplicates of the same to the Treasury Department of the United States, or in such other manner as may be stipulated as most convenient and proper by the parties concerned. So much, sir, as to the matter of revenue, and so much as to the security for its payment.

Now, Mr. President, for the advantages which are supposed to result to the new States from the adoption of this amendment, as contrasted with the amendment of the Senator from Kentucky, (Mr. CRITTENDEN.) Besides the thirty-five per cent. on the gross amount of sales, the whole of the lands within the limits of the new States, would immediately become subject to their sole and exclusive jurisdiction, in regard to occupancy, settlement, and cultivation; the conflict of jurisdiction between the United States and the new States avoided; the principles of graduation in the price, and pre-emption to settlers secured; and a final cession of such lands as shall have been in the market, and remain unsold for thirty years to the States. It is true, sir, that the Senator's (Mr. CRITTENDEN's) proposition embraces the principle of pre-emption, but with what limitation, and with what restrictions we know not; except as inferences may be drawn from his own argument and the arguments of gentlemen who have followed his lead on this occasion. His honorable colleague (Mr. CLAY) said some days ago in reference to, and in opposition to pre-emptions, and attempted to prove by documentary testimony, that much had been lost to the Treasury in consequence of a departure from the old system of selling all the lands in the first place at public auction, and that he had been informed that many of the pre-emptioners had, by rushing out and seizing upon the best lands, been permitted to purchase lands worth ten, twenty, and thirty dollars per acre at the minimum price of one dollar and twenty-five cents an acre. Well, suppose this statement to be true; and, if so, it must have been in a very limited extent, in the original settlement of a new country, and what does it demonstrate? Nothing more than that the lands were, in a great degree, made thus valuable by the very settlement and cultivation of which the Senator (Mr. CLAY) complains. It is by the pre-emption policy that we secure these occupants, who incorporated their labor with the soil, in their possessions, against the more wealthy who buy on speculation; and against whom they could not be expected successfully to compete, at public auction; and place the lands in the proper hands of those whose occupation is to cultivate them.

But the honorable Senator from Kentucky (Mr. CLAY) says, will you break up and destroy by such measures, this old, well-tried, and well-approved land system, hitherto unchanged? that the flourishing States of Ohio and Indiana have grown up under its benign influence; that Illinois has doubled her popu-

lation in the last six years, and now has near half a million of inhabitants under its fostering care also; and concludes by asking emphatically, are you not satisfied with your prosperity? It is true, Mr. President, that these States have grown up, as well in population as in agricultural improvement, and morals, with an unexampled degree of rapidity and prosperity. It was in consequence of this prosperity, Mr. President, that Illinois, with her free white population, and liberal principles towards foreigners, gave more votes at the late election for President than either Virginia or Kentucky; not that she had more population, as was erroneously stated in the sketch of the debates published a few days ago. But, sir, her march is onward; and if her legislative guardians at home shall promptly discharge their duty in the preservation of her credit and her honor at home and abroad, who cannot foretell that her destiny is no less than that of an empire State.

But has the Senator (Mr. CLAY) forgotten that this system of pre-emptions for which we contend commenced as far back as 1813; and that it has been continued with but slight interruption ever since, until it has almost become a part of the system of which he speaks with so much commendation? and does he not know, that another important change was made in this old and well-approved system, by the act of the 24th April, 1820, from a *credit* to a *cash* system; and by a reduction in the price of land from two dollars to one dollar and twenty-five cents per acre. And is it not a fact, that this unexampled prosperity to which he alludes, is in a great degree attributable to these very changes, the pre-emption feature of which he now, at this late day, so much deprecates? Sir, what said the honorable Senator from Massachusetts (Mr. WEBSTER) in reply to the Senator from Kentucky, (Mr. CLAY,) in the debate of 1838 on this same subject of pre-emptions? Mr. WEBSTER said:

"The difference between the member from Kentucky (Mr. CLAY) and myself on this occasion is plain and distinct. It is precisely this:

"He is altogether against the pre-emption right. He is for carrying into operation the law, as it stands, and for giving it effect over the lands on which these settlers live, in the same way as over other public lands. He is for putting all these lands up to open auction, and selling them to the highest bidder, letting the settler take the consequence. He says there should be an auction, and a free auction; and he argues, with that consistency and cohesion of ideas which belongs to him, that if there is to be a public auction, as he insists there ought to be, then there must be, and ought to be, a perfectly free competition. That it should be as open to one man to bid as another; that no man, or men, ought to be privileged or favored; that it is ridiculous to talk of an auction, at which one man may bid, and another may not; or an auction, at which some bidders are told that others must have preference. He, therefore, is for a free sale, open to everybody, and to be conducted in that manner which

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shall insure the receipt of the greatest sum of money into the Treasury. Now I say at once, plainly and distinctly, that this is not my object. I have other views. I wish, in the first place, to preserve the peace of the frontier; and I wish, also, to preserve and to protect the reasonable rights of the settlers; because I think they have rights which deserve to be protected. These are my objects. Sir, if we could order an auction here, in this city, or elsewhere, out of all possible control of the settlers, and far from fear of any influence of theirs, and could there sell the lands they live on, and their improvements, for their utmost value, and put the proceeds of the whole into the Treasury, it would be the very last thing I should ever do. God forbid that I should make gain and profit out of the labors of these settlers, and carry that gain into the Treasury. I did not suppose any man would desire that. I did not suppose there was any one who would consent that the increased value of these lands, caused by the labor, the toil, and the sweat of the settlers, should be turned to the advantage of the National Treasury. Certainly, certainly, sir, I shall oppose all proceedings leading to such a result. Yet, the member from Kentucky has nothing to propose, but to sell the lands at auction for the most they will bring, at a sale which he says ought to be perfectly free and open to everybody, and to carry the proceeds into the Treasury. Let the sales go on: that is his doctrine. Let the laws take their course, he says, since we live under a Government of laws. Have a sale, make it free and open, and make the most of it. Let the Government take care that everybody who wishes to bid, be as free to do so as any other; and that no combination, no privilege, no pre-emption, be suffered to exist.

"Now, sir, in my opinion, all this is what we cannot do, if we would; and what we ought not to do, if we could. I do not believe we can have an auction, under existing circumstances, such as the gentleman insists upon. The known condition of things renders it impossible. The honorable member thinks otherwise. He will not agree, he says, that the President, with the militia and the army, cannot protect the authorities in maintaining a fair and open sale. Sir, is it discreet, is it prudent, to refer to such a resource as that? Is it not greatly wiser, and greatly better, to remove the occasion, which may be done without injury to the Government, and in perfect consistency with the rights of others, rather than to think of such measures as have been suggested? For one, I disclaim all such policy."

But the Senator from Kentucky (Mr. CURTIS) proposes to grant pre-emptions exclusively to those worth less than \$1,000, for the sole purpose of accommodating the needy honest settlers, and cultivators of the soil. Well, sir, what is to become of the poor and needy (to say nothing about honesty) speculator under this arrangement. Mr. President, if the Senator had known the situation of many of these poor, needy, and I may add, miserable speculators, I feel satisfied, from his goodness of feeling, that he could not have found it in his heart to have proposed their exclusion from the benefits of his system; of which charity would seem to have been the moving consideration. Why, sir, of all the unfortunate beings in the community, none commend themselves

more to our sympathy and charity as a class, under existing circumstances, than these same proscribed speculators in the public lands. I believe, however, on reflection, that they will most likely find their relief under another proposition submitted by the Senator from Kentucky (Mr. CURTIS)—the bankrupt bill—which is pressing hard upon the bill under consideration, rather than under any system of pre-emption which could be devised by the ingenuity of gentlemen, and especially if the *cash* principle should be retained, as I assure the Senator that most of them are very tender-footed on this subject of cash payments, just at the present time.

But, Mr. President, is there no reason to fear that the Senator, in the fulness of his sympathy for these poor needy tillers of the soil, will, if his proposition succeeds, do more mischief to that class of individuals, than to any other, by his thousand dollar restriction? Suppose, for instance, a man of fifty years, with a large family of children, and an unhealthy wife, should emigrate from Kentucky to Illinois, for the purpose making some provision for his children, in a new country, which, from his scanty means, he could not do in Kentucky, and he should *unfortunately* happen to be worth \$1,050; would you exclude him from the benefits of your system? Yes, sir, he is worth fifty dollars too much; and if he desires to procure good land, must buy second hand, at five, ten, and fifteen dollars per acre, and yet there are among the emigrants to the West, thousands of just such persons and families. I never will, Mr. President, give my consent to any such pre-emption law. I desire that all such laws may be free and equal; that the rich and poor, and those of the middle degree, may all fare alike, provided they will settle down upon the land, and cultivate it.

Sir, I have lived through a period, although not yet as gray as my old friend from Missouri, (Mr. LINN,) and in reference to whom I use the word *friend* as no common-place term, in which we have had many ups and downs, in the way of hard times and measures of relief; and my experience has been, with but few exceptions, that the "poor people," as they are called, and for whose benefit these measures of relief are ostensibly proposed to be enacted, are, for the most part, the very persons who suffer the most by them, and have the least occasion for their enactment. And such is the case with your border people, who are represented here as being "poor squatters," or rather "poor intruders," upon the public lands. Sir, all they desire by your legislation here is, that you shall do equal justice to the rich and to the poor—by selling your land at one dollar and twenty five cents per acre to all who are willing to go upon and cultivate them. At this price, the poor can compete with those who are really rich, when they could not at the sales, by auction, and only desire

that those who go first upon the land shall have the preference in the purchase of it. Mr. President, these squatters are the men who are *semper parati*, always ready, at the day, to pay their \$200 for their 160 acres of land; while the land dealer, or speculator, in most cases, can purchase, or not purchase, as the banks for the time being happen to extend their accommodations in that way or not. How is it with the bankrupt bill, which is pressing so closely upon our heels, as a great measure of relief? Is this intended for the unfortunate poor man, or is it for a more favored class of individuals? In this I believe, Mr. President, the thousand dollar principle works the other way.

But, Mr. President, if this scheme for distribution succeeds, are we not in danger in the new States, from the cupidity that may be excited in the old States, to make it exclusively a money measure, with an eye single to the *dividends*, of having the price raised upon us? But more than this: have we not just cause to fear that an attempt will be made to limit the settlements to such lands only as shall be subject to private entry, and that our borders are hereafter to be considered, watched, and dealt with as a band of lawless depredators and trespassers! What, sir, said the Senator from North Carolina (Mr. MANGUM) on this subject but a few short days ago? He said, if I remember, "that he had been informed that great depredations had been committed upon the public lands in the West; that these trespasses were considered not only excusable, but honorable by those who committed them, and concluded by warning the old States to watch this interest with increased vigilance, and to adopt measures to prevent such spoliation in future."

Thus, Mr. President, I suppose we are to have under this new guardianship, a *cordon* of spies, or common informers, upon our frontier—perhaps one from each of the old States—the settlers are to be driven off, *volens volens*, by a military force, if necessary—their cabins burned down—their crops cut up and destroyed, and themselves subjected to fine and imprisonment, or other pains and penalties, if they should happen to cross over the border, and cut a few logs for a cabin, make a few rails to fence a truck patch, or even cut down a board of a bee tree, although it may be considered "honorable" among backwoodsmen, in accordance with the public sentiment generally, and in conformity with the immemorial usage of the country. Sir, let me tell that Senator, that such a system of espionage upon the citizens of the new States, hitherto unprecedented, or any other system of that character, will never be submitted to.

Mr. President, as the honorable Senator from North Carolina (Mr. MANGUM) seems to think but little of the morals of our pioneer population, on account of their *honorable trespasses* upon the public lands, as he is pleased to term them, I beg leave to set him right, and to

quiet his apprehensions on that subject, by referring to the honorable testimony of the Senator from Massachusetts, voluntarily accorded, in behalf of the settlers in the West, shortly after he had made a visit to that country, and when their character, on a like occasion to the present, had been called in question here. Mr. WEBSTER said:

"Much has been said of the general character of the settlers. I have no extensive information, sir, on that point, and had not intended to say any thing upon it. But it has so happened that I have recently been in the North-west, and have met, for a short time, with many of these settlers; and, since they have been spoken of here with so much harshness, I feel bound to say that, so far as my knowledge of them goes, they do not deserve it. Undoubtedly, sir, they are trespassers in the contemplation of law. They know that very well. They are on the public lands without title; but then they say that the course of the Government heretofore has been such as to induce and encourage them to go where they are; and that they are ready and willing to do all that Government has required from others in similar circumstances; that is, to pay for the lands at the common price. They have the general character of frontiersmen: they are hardy, adventurous, and enterprising. They have come from far, to establish themselves and families in new abodes in the West. They appeared to me to be industrious and laborious; and I saw nothing in their character or conduct that should justly draw upon them expressions of contumely and reproach."

But, Mr. President, this plan of restricting the sales, and of consequence the settlements, to such lands only as shall, for the time being, be subject to private entry, is no new doctrine. As far back as December, 1829, now eleven years ago, Mr. Foot, of Connecticut, then a Senator on this floor, introduced a resolution instructing the Committee on Public Lands to inquire into the expediency of limiting the sales of public land for a certain period, to such only as had been before that time offered for sale, and subject to private entry at the minimum price; and also whether the office of Surveyor General might not be abolished without detriment to the public interest. This, sir, was a distinct proposition, coming from a distinguished Senator from an old State, not only to restrict the sales to the lands subject to private entry, but to stop the surveys, and even to abolish the office of Surveyor General, so that no more could be made in future. Here, then, we have an exemplification of the record of what we of the new States may expect, if the old should once fairly get their clutches upon these public lands. Yes, Mr. President, here was a proposition which, if it had been adopted, would have put an end to all the inducements to emigration. The operatives (as they are called) would have remained in the manufactories, or as tenants and dependants in some form to their more wealthy neighbors, in the old States, and all the facilities for the extension of our settlements and improvement of the

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country, broken up and utterly destroyed. And not only so; for we shall soon have claims set up, under a variety of pretences, to certain ratable proportions of this great trust fund, (as it has been called,) in the way of back rations, with a *just view, doubtless, of equalisation*, in respect to the lands which have been granted to the *new States* for internal improvements and the purposes of education; and for this, also, we are not without precedent. As far back as January, 1821, Mr. Lloyd, of Massachusetts, then a member of this body, submitted for consideration a resolution instructing the Committee on Public Lands to inquire into the expediency of granting lands for the purpose of education within the limits of the *old States*, corresponding with the appropriations which had been made for the same object within the limits of the *new States*. Had that Senator forgotten that these lands for school purposes were granted by virtue of compacts, and in consequence of a valuable consideration, on the part of the new States, and were not mere donations? And what was that consideration? Take the State of Illinois for example. Congress agrees, on the part of the United States, that section No. 16, in every township, shall be reserved for the use of schools; to grant to the State all salt springs, and the lands reserved for the use of the same; five per cent. of the net proceeds of the sales of the public lands within the State; two-fifths to be disbursed by Congress in making roads in the State, and three-fifths by the State Legislature for the encouragement of learning; and an entire township of land for a university. For which favors, Illinois agrees, on her part, that she will exempt from taxation all lands sold after the 1st of January, 1819, for *five* years; all lands granted for military bounties for *three* years from the date of the patents; and that she would not tax the lands of non-residents higher than those of residents. This was the consideration, and what does it amount to? According to the report of the Commissioner of the General Land Office, the amount of money received on account of sales of the public lands, in that State, into the national Treasury, is stated at \$14,207,046; the number of acres sold at \$1 25 per acre, would be 11,366,636.

These lands, if subject to taxation from the day of sale, at two cents per acre per annum, which corresponds with the rate of taxation in that State, including the road tax, would, in *five* years, produce to the State the sum of \$1,186,560. The quantity of land appropriated for military bounties is stated at about 3,500,000 acres. This, at the same rate of taxation for *three* years, would amount to \$210,000; making together the sum of \$1,846,560; and this system of exemption from taxes is still going on *pari passu* with the sale of the lands, and is applicable to the *nineteen* millions of acres still unsold in that State. And what amount

of lands has been granted to Illinois, for various purposes, internal improvement, education and all, in consideration of this exemption? Why, sir, according to the Commissioner's report from which I have quoted, 1,537,817 acres up to January 1st, 1840; and I believe, if we may judge from the "signs of the times" here, that we have received but precious little since, with a very gloomy prospect for the hereafter. These facts, I trust, Mr. President, will put to rest this question of *equalization*, at least as it regards the State of Illinois, as I think that all unprejudiced men will agree, to use a Wall street expression, that we have granted a pretty broad margin to Uncle Sam for all the favors and privileges he has conferred; to say nothing of our refraining to tax *all* the lands for an indefinite period of time, during the continuance of their ownership by the United States.

Mr. HUBBARD, spoke at much length in opposition to the amendment of Mr. CRITTENDEN and the distribution policy.

Mr. H. was followed in the debate by Messrs. CALHOUN, WEBSTER, BENTON, CLAY of Alabama, PIERCE, HENDERSON, RIVES, ROANE, PORTER, and CRITTENDEN. Messrs. PIERCE and ROANE stated that they would vote for Mr. YOUNG's amendment merely because they preferred it to that of Mr. CRITTENDEN, but that they were opposed to the passage of either of them.

The question was then taken on Mr. YOUNG's amendment, and it was decided as follows:

YEAS.—Messrs. Allen, Anderson, Benton, Calhoun, Clay of Alabama, Fulton, King, Linn, Lumpkin, Mouton, Nicholas, Nicholson, Norvell, Pierce, Roane, Robinson, Sevier, Tappan, Walker, and Young—20.

NAYS.—Messrs. Bates, Bayard, Buchanan, Clay of Kentucky, Clayton, Crittenden, Dixon, Graham, Henderson, Hubbard, Huntington, Ker, Knight, Mangum, Merrick, Phelps, Porter, Prentiss, Preston, Rives, Ruggles, Smith of Connecticut, Smith of Indiana, Southard, Sturgeon, Tallmadge, Wall, Webster, White, Williams, and Wright—31.

The question was then taken on Mr. CRITTENDEN's motion to recommit with instructions, and decided as follows:

YEAS.—Messrs. Bates, Bayard, Buchanan, Clay of Kentucky, Clayton, Crittenden, Dixon, Graham, Huntington, Ker, Knight, Mangum, Merrick, Phelps, Prentiss, Ruggles, Smith of Indiana, Southard, Sturgeon, Tallmadge, Webster, and White—22.

NAYS.—Messrs. Allen, Anderson, Benton, Calhoun, Clay of Alabama, Fulton, Henderson, Hubbard, King, Linn, Lumpkin, Mouton, Nicholas, Nicholson, Norvell, Pierce, Porter, Preston, Rives, Roane, Robinson, Sevier, Smith of Connecticut, Tappan, Walker, Wall, Williams, Wright, and Young—29.

The question was then taken on the passage of the bill and decided in the affirmative, as follows:

YEAS.—Messrs. Allen, Anderson, Benton, Buchanan, Clay of Alabama, Fulton, Henderson, Hubbard, King, Linn, Lumpkin, Mouton, Nicholas, Nicholson,

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Norvell, Pierce, Porter, Robinson, Sevier, Smith of Connecticut, Smith of Indiana, Sturgeon, Tallmadge, Tappan, Walker, Wall, Webster, White, Williams, Wright, and Young—31.

NAYS.—Messrs. Bayard, Calhoun, Clay of Kentucky, Clayton, Crittenden, Dixon, Graham, Huntington, Ker, Knight, Mangum, Merrick, Phelps, Prentiss, Preston, Rives, Roane, Ruggles, and Southard—19.

So the bill was passed, and ordered to be sent to the House for concurrence.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 3.

*Votes for President and Vice President.*

Mr. CUSHING said he was instructed by the Joint Committee appointed to examine the votes for President and Vice President of the United States, and to notify the persons elected of their election, to ask that the House concur in the following resolution :

*Resolved*, That the two Houses will assemble in the chamber of the House of Representatives, on Wednesday, the 10th of February, at 12 o'clock, and the President of the Senate shall be presiding officer; that one person be appointed a teller on the part of the Senate, and two on the part of the House of Representatives, to make a list of the votes as they shall be declared; that the result shall be declared to the President of the Senate, who shall announce the state of the vote, and the persons elected, to the two Houses as aforesaid, which shall be deemed a declaration of the persons elected President and Vice President of the United States, and, together with a list of votes, be entered on the journals of the two Houses.

The resolution was concurred in.

## IN SENATE.

MONDAY, February 8.

*Bankrupt Bill.*

Mr. CRITTENDEN then moved the special order be taken up, being the bill to establish a uniform system of bankruptcy throughout the United States.

Mr. CLAY, of Alabama, hoped the question would first be taken on the recommitment, as the disposal of that question might also dispose of the instructions. He then intimated that he should vote against the recommitment, but he was ready, in the mean time, to hear any proposition that gentlemen might have to make.

Mr. WRIGHT begged it might be understood, that if the Senate refused to recommit, all the instructions, as instructions, would fall with it, and no vote could be taken upon them. He wished the Senate to hear this in mind.

The question was then taken, and the motion to recommit was negatived—ayes 16, noes 80.

Mr. HUBBARD then moved an amendment to the first section of the bill, the purport of which was to include banking and trading incorpora-

tions within its provisions, and he called for the ayes and noes thereon.

Mr. BUCHANAN inquired whether the Senator from New Hampshire did not intend to fix some particular time for the commencement of the operation of that provision.

Mr. HUBBARD had intended to fix a time when the bill should take effect, if his amendment were adopted, otherwise such a motion would be unnecessary.

Mr. CLAY, of Alabama, had given an intimation a few days ago that he should vote against including banking incorporations in the bill; he had made a motion to strike out a clause to that effect, at the last session, and on referring to the constitutions of the old States, he was confirmed in the determination to which he had come. He then read extracts from the constitution of Alabama, to show that banks were established by the sovereign authority of the State—in some of which, in fact, the State held capital—and therefore he contended that he, as a Senator from Alabama, could not consent to vote to extend such a provision of this bill to such State incorporations, as the State would necessarily be affected by such an enactment. He was opposed in every point of view to the intermeddling in State institutions in the manner proposed, or to their assuming powers which did not belong to them.

The Senator from Missouri (Mr. BENTON) had given them, the other day, as part of his argument, a long extract from a letter written by the present Chief Magistrate of this Union, to some committee, during the last summer. In return, he (Mr. CLAY) proposed to read, as rather more orthodox, the remarks of Senator Van Buren, which he thought would be found to contain the better argument. The extract to which he referred was as follows :

“Mr. Van Buren did not think that any great difficulty existed in this question. To him the matter was clear; but his impressions had been opposed by several Senators, and he would protract the debate but a moment, to give, very briefly, his views of the matter. It certainly appeared to him, that one moment's reflection would decide gentlemen against the amendment proposed by his friend from South Carolina. It had been said formerly, and on various occasions, that the States had no right to grant bank charters, and that the banking privilege belonged exclusively to the Federal Government. No direct attempt, however, had hitherto been made, to deprive the States of that power which they had long exercised unmolested. But now the attempt was to be made, (if not in an open and unequivocal manner, at least in an indirect way,) to strip the States of the power of chartering banks. At any rate, if it were contended that this provision did not go so far, it could not be denied that it interfered in the regulation which State Governments might have adopted for the government of those institutions, which was an odious exercise of power not granted by the constitution. This amendment has this extent: It directs the States as to the manner in which they shall exercise their sovereignty in this particular, and points out what penalty shall be inflicted in

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*Bankrupt Bill.*

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case the charters granted by the States are violated. In fact, it points out what the privileges granted to the incorporations shall be, by dictating the forfeiture, and directing what the companies may, and what they may not do. All this has hitherto been done by the States. They have assumed the direction of these matters as a right, which they doubtless have. And in including this subject of corporations in the bill now before the Senate, it will be taken entirely from the States, and subjected to the power of the bankrupt system. This was never done, and never attempted in any country on the face of the globe. In England, such a provision was never dreamed of—nor did he believe that, when the constitution was framed, such an attribute was imagined by those who authorized the establishment of a bankrupt system. He did not accede to the opinion, that the system had power over all chartered institutions. By the very nature of their association, they were, in some respects, exempted from its operation, and no such power was ever contemplated, or was, at this moment, under the most extended construction, enjoyed by the General Government."

Thus it would be seen Senator Van Buren took views which were now entertained by some Senators then on that floor on the same subject, against the proposition, on constitutional grounds. It was clear to him (Mr. CLAY) that if Congress could assume such power over the banking institutions of the States, it could do that which would amount to a forfeiture of their rights; if it could do that, it could tax their emissions, and thereby assume a power which the party with which he acted had ever disclaimed. In Alabama there was a compact between these institutions and the State, and Alabama had particularly reserved to herself all power to control this matter. A suspension of specie payments, by such a clause, would subject the banks to the operation of the bankrupt law, and this was a matter which the States alone should control, and for which the State Legislatures should inflict the penalty which, under the circumstances of the case, might be just and equitable. The State banks had been sanctioned by the Executive of this Government, where they were made the depositories of its treasures, and Congress could, on no principle, say they should be put down, without the delegation of express power. For such a proposition as that now made, he was not prepared, nor did he believe that the people, whom he in part represented, were prepared for it, and therefore he should vote against the amendment.

Mr. HUBBARD agreed so to modify his amendment, as to make it take effect on the 1st of January, 1842. He then said it had been contended, and properly contended, that Congress possessed the power to pass a bill to establish a uniform system of bankruptcy, and that it might be passed for the relief of the debtor, as well as for the benefit of the creditor; now it struck him that no natural persons should be included, more than the artificial. It was not every State that became stockholders in the banks, but did it make any difference whether it was the State or a

member of the State that held the stock? So far as his knowledge extended, where the State was the stockholder, things were managed as bad as they could be, and with less care and security to the public than when the institutions were composed of individuals exclusively. But where was the difference? Take Alabama; her constitution gave her the power to establish banks; but did it say that she should hold the stock in all future time? Did it provide that it should never be surrendered, and become the property of individuals in any future time?

Mr. BENTON. If anybody will buy it.

Mr. HUBBARD. Yes, if anybody would buy it. He took it that it should be handed over at the pleasure of the State, and when so transferred, that it should become the property of individuals. He asked whether the events of the last few years had not shown it to be high time that the banks should be brought within some such provision? There was not a solvent and sound institution in the State in which he lived but would desire such a provision, for it would go effectually to secure the credit and to give efficiency and value to institutions of this kind. These incorporations had peculiar privileges conferred upon them—they could make their bills current as money, and then they could suspend when they pleased; and it struck him that the holders of their notes should have a remedy, by making these incorporations subject to the operation of a bill of this sort. Now what security had the holders of their notes? If such a provision as this had been heretofore in operation, would the bill-holders have sustained the losses to which they had been compelled to submit by the failure of the banks to redeem their paper? He was willing and desirous that this bill should be made as comprehensive as possible; he wished to relieve the unfortunate debtor, and also to secure the rights of the honest creditor, and there were no more unfortunate debtors in the land than those who were obliged to take the paper of the banks; and with these views, he had made his proposition.

Mr. SEVIER was astonished that the amendment of the Senator from New Hampshire (Mr. HUBBARD) was not broader than it was, and that it was not thereby provided that the indebted States should be put up at auction. Why did not the Senator carry out his principle, and sell the States when they failed to pay their dividends? He (Mr. SEVIER) was opposed to all such projects; and as long as he was there, offend whosoever it may—Mr. Van Buren or any one else—he would vote against them. His friend from Alabama (Mr. CLAY) had read a provision of the constitution of that State in justification of his vote; the constitution of the State of Arkansas contained a similar provision; and if the banks suspended, it was for the State to interfere with the agents acting under her authority. What right had they, sitting in that Senate chamber, as the servants



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of the States, to criticize the household of their masters at home? He was opposed to all such projects, and so long as he remained there uninstructed, he should continue to vote against them. Besides, the country was now somewhat embarrassed, and if ever there was a time for the exercise of forbearance and charity, this was the time for the exercise of those virtues.

Mr. HENDERSON was glad to hear the language which had just fallen from the Senator from Arkansas. This was a question of power and of constitutional right; if it were a question of expediency, he might vote for including banks within the provision of the Senator from New Hampshire; but he could see, no more than could the Senator from Arkansas, the authority they possessed to include the banks, which were but an emanation from or a scintillation of the States, sent forth to be recalled at pleasure. If they could interfere with any portion of the sovereignty of the States, they could interfere with all their sovereignty. Why, he might ask, with the Senator from Arkansas, were not the States themselves included in this bill? for they got into debt. If they could include the incorporations of the States, why could they not include the States themselves? Why, in his opinion, there could not be a greater arrogation of power than would be assumed by the Congress of the United States, if this amendment should be adopted. It would be to give this Government supreme dominion over the States, and to take it from the people in their sovereign capacity. He objected, then, to this proposition, as a simple question of power.

Mr. SMITH, of Connecticut, followed, and contended for the right of Congress to extend a bankrupt law to banking institutions. He argued that, if the exercise of the sovereign power of a State in the incorporation of these institutions excluded them from the operations of this law, the exercise of similar sovereign power would exclude trading corporations also. The whole beneficial operation of the law on trade and commerce will be thwarted by the action of the State Legislatures. So far as the States may choose to give charters of incorporation to their citizens, they are entirely exempt from its operation. A State, if it thinks proper, may incorporate all its citizens. There is a general law of incorporation in the State of Connecticut, by which every citizen of the State may be incorporated, and of course, if the doctrine contended for by some gentlemen be correct, will be exempt from the operations of this law. He held that a State had no right to divest itself of its sovereignty in this manner, if the effect of doing so would be to create privileged classes in the community.

Mr. CALHOUN rose, not to protract the debate, nor to enter at large into the argument upon the point immediately in discussion, but to reply to a remark of the Senator from New York, who had adduced the only argument in

favor of including incorporations which had the semblance of plausibility. The Senator says that if we have the power to pass a law, operative upon natural persons, in their individual capacity as citizens of a State, he can see no reason to prevent our including those persons associated in companies with corporate powers granted by State Legislatures. He can see no reason to exempt an artificial body from the operation of a law to which the natural body is subject. Now the very fact of this body being of State creation, is the reason why it should be exempt from the operation of our laws. This Government cannot control or interfere with the States in their appropriate spheres of action; nor can the States interrupt or interfere with the operations of the Federal Government in its legitimate sphere. If a State Legislature incorporates banks, we cannot touch them. And in relation to the United States Bank, the court below has decided that it could not be interfered with by State authority. He would not go into this argument, but under every view in which he had contemplated it, he considered it the boldest assumption of power ever proposed to be conferred upon the Federal Government. If we can overrule State legislation in regard to incorporations, what act of a State can be considered sacred from our interference? The very basis of the argument is that the States are not capable of doing their duty, and we, patriotic we, step in and do it for them. The Senator from Arkansas had not, in his opinion, pushed the argument too far, when he said if you placed the incorporated companies of a State under a commission of bankruptcy, you might next attempt to place the State herself in the same position. This whole argument was in face of the fact that England had never attempted to extend her bankrupt laws over incorporations.

He then entered into the question of the expediency of this measure. To include these incorporations in a bankrupt bill would be to place four-fifths of the business men of the country in a commission of bankruptcy. The banks have now owing to them from the community, at least five hundred millions of dollars; and to subject them to a bankrupt law, would subject every man who owed them to the same process, and your commissioners of insolvency would have half the property of the Union in their hands. Public feeling would rebel against this state of things, and your law would be impotent.

Mr. CLAY, of Alabama, submitted a few remarks in reply to the Senator from New York. Every State had a right to deal with her institutions as she thought proper. The Senator said that New York had placed her banks under the operation of a bankrupt law. This she had a perfect right to do; but did not every Senator perceive the difference between the State doing this herself, and the Federal Government assuming the power to do it? But

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suppose we incorporate this amendment into the bill, and it is attempted to be enforced upon the banks of New York, will there not be a conflict of jurisdiction between the State and United States Commissioners of Insolvency, and, if so, which will prevail? If the course pursued by New York in this matter be beneficial, let it be imitated by other States; but it is no argument for this Government to assume the power of placing the property of a State in the hands of a commissioner of the Federal Government. He then, at some length, described the connection between the State and the banks of Alabama. He hoped gentlemen would look to the consequences of this doctrine; and if it was attempted to be carried out, he thought it very probable they would soon hear from the States who were interested.

Mr. WRIGHT had but a few remarks to make in reply. As to the connection of the State of Alabama with her banks, he would ask if the State acknowledged herself bound to pay the notes, and other liabilities of the banks? If she did not, he could not see the course of the Senator's argument. Then, as to the argument of the Senator from South Carolina. He says that within their respective spheres the jurisdiction of the Federal and State Governments must not conflict with each other, and instances the decision of the Supreme Court in the case of McCulloch, to show that the States have no power over a company chartered by the Federal Government. Now this decision of the Supreme Court was no law to him. It presupposed the Federal Government had power to charter a banking incorporation, which he denied. But suppose the decision correct, what did it amount to. Only that a law of Congress, constitutionally passed, is superior to the law of a State; and the Senator says, *ergo*, this Government cannot tax corporate property created by the State. Is the Senator willing to say that all property which might be covered by acts of incorporation shall be exempt from taxation? New York has passed a law by which all religious societies may incorporate themselves, without further appeal to State legislation. She has power to pass, giving to mechanics, to farmers, and to every class who may apply for it, the same privileges, and thus to cover all the property of the State by acts of incorporation, and thus take it out of the reach of the taxing power of this Government.

Mr. CALHOUN said he had not advanced an argument, but merely laid down a principle, that each Government was supreme in its proper sphere. As to the right of this Government to charter a National Bank, the Senator knew his opinions; they were the same as his own. The real question in this case was, when the two parties have rights, and their exercise becomes incompatible, which must give way; and he had no hesitation in saying, in the case supposed by the Senator from New York, the taxing power of the General Government would

be paramount. The mere fact that in England, whence we have derived this law, its form and its language, it is never applied to incorporations, should be conclusive with us. He repeated, what he had before said, that he considered it the boldest assumption upon the rights of the States ever attempted by the Federal Government.

Mr. HENDERSON rose, but yielded to a motion for adjournment.

And the Senate adjourned.

WEDNESDAY, February 10.

*Election of President and Vice President of the United States.*

A message was received from the House of Representatives, announcing that the House was ready to receive the Senate, and to proceed to count the votes for President and Vice President of the United States, in conformity with the constitution, and in pursuance of the joint resolution on that subject.

On motion of Mr. KNIGHT, the Senate proceeded to the hall of the House of Representatives, preceded by their Secretary and Sergeant-at-Arms.

After the votes had been counted, the Senators returned to the Senate chamber, where the following resolutions were adopted:

*Resolved*, That a committee of one member be appointed by the Senate, to join a committee of two members to be appointed by the House of Representatives, to wait on WILLIAM HENRY HARRISON, of Ohio, and inform him that he has been constitutionally elected by the electors of the several States, President of the United States for four years from the 4th day of March, 1841.

Mr. PRESTON was appointed on the part of the Senate.

*Resolved*, That the President of the Senate do cause JOHN TYLER of Virginia to be notified that he has been duly elected Vice President of the United States for four years from the 4th of March, 1841.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 10.

*Election of President and Vice President.*

This being the day specially set apart by a joint resolution for the two Houses to convene in joint meeting at twelve o'clock, for the purpose of opening and counting the electoral votes given by the several States for President and Vice President of the United States, and the hour of twelve o'clock having arrived,

On motion of Mr. BRIGGS, it was

*Ordered*, That the Clerk inform the Senate that the House is now ready to receive the Senate, and to proceed in opening the certificates, and in counting the votes, of the Electors for President and Vice President of the United States.

The Clerk having delivered the said message, The Senate attended in the hall of the House; the President of the Senate was invited to a

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Statement of Votes for President and Vice President.

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seat provided for him on the right of the Speaker, which he occupied; and the Senators having taken the seats set apart for their accommodation.

The VICE PRESIDENT of the United States, in presence of the two Houses of Congress, proceeded to open the certificates of the Electors of President and Vice President of the United States, beginning with those of the State of Maine, and ending with the State of Michigan; and the tellers, Mr. PRESTON on the part of the Senate, and Mr. CUSHING and Mr. JOHN W. JONES on the part of the House, having read, counted, and registered the same, making duplicate lists thereof, and the lists being compared, they were delivered to the VICE PRESIDENT of the United States, and are as follows:

*Statement of the Votes for President and Vice President of the United States for four years from 4th March, 1841.*

No. of Electors appointed by each State.	STATES.	For President.		For Vice President.		
		William Henry Harrison.	Martin Van Buren.	John Tyler.	Richard M. Johnson.	Littleton W. Tazewell.
10	Maine.	10		10		
7	New Hampshire,		7		7	
14	Massachusetts,	14		14		
4	Rhode Island,	4		4		
3	Connecticut,	3		3		
7	Vermont,	7		7		
42	New York,	42		42		
8	New Jersey,	8		8		
30	Pennsylvania,	30		30		
8	Delaware,	8		8		
10	Maryland,	10		10		
23	Virginia,		23		23	1
15	North Carolina,	15		15		
11	South Carolina,		11		11	
11	Georgia,	11		11		
15	Kentucky,	15		15		
15	Tennessee,	15		15		
21	Ohio,	21		21		
5	Louisiana,	5		5		
4	Mississippi,	4		4		
9	Indiana,			9		
5	Illinois,		5		5	
7	Alabama,		7		7	
4	Missouri,		4		4	
3	Arkansas,		3		3	
8	Michigan	8		8		
294	Whole No. of Votes	294	60	234	48	11
148	Majority.					1

## RECAPITULATION.

## For President.

WILLIAM HENRY HARRISON, of Ohio, - - - - 234  
 MARTIN VAN BUREN, of New York, - - - - 60

## For Vice President.

JOHN TYLER, of Virginia, - - - - 234  
 RICHARD M. JOHNSON, of Kentucky, - - - - 48  
 LITTLETON W. TAZEWELL, of Virginia, - - - - 11  
 JAMES K. POLK, of Tennessee, - - - - 1

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The PRESIDENT of the Senate then announced the state of the vote to the two Houses of Congress in joint meeting assembled, and declared that William Henry Harrison of Ohio, having a majority of the whole number of the electoral votes, is duly elected President of the United States for four years, commencing with the fourth day of March next, 1841; and that John Tyler, of Virginia, having a majority of the whole number of electoral votes, is duly elected Vice President of the United States for four years, commencing with the fourth day of March next, 1841.

The joint meeting of the two Houses of Congress was then dissolved, and the Senate returned to its chamber.

Mr. CUSHING, from the Joint Committee appointed to ascertain and report a mode for ascertaining the votes for President and Vice President of the United States, and of certifying the persons elected of their election, presented the following in continuation of their report:

*Resolved*, That a committee of one member of the Senate, to be appointed by that body to join a committee of two members of the House of Representatives, to be appointed by that House, wait on WILLIAM HENRY HARRISON of Ohio, and notify him that he has been duly elected President of the United States for four years commencing with the 4th day of March, 1841.

The resolution was then adopted *nem. con.*

The House then adjourned until 11 o'clock to-morrow morning.

## IN SENATE.

THURSDAY, February 11.

Mr. PRESTON, from the Joint Committee appointed to wait on WILLIAM HENRY HARRISON, of Ohio, and inform him that he has been constitutionally elected by the electors of the several States, President of the United States for four years from the 4th day of March, 1841, reported that they had performed the duty assigned them, and that Gen. HARRISON said in reply:

"That he receives this manifestation of the confidence of his countrymen with profound gratitude, and that he will earnestly devote himself to the discharge of the duties it imposes, so as, according to his best abilities, to promote the honor and welfare of the country."

FRIDAY, February 12.

Mr. CLAY, of Alabama, presented the credentials of the Honorable WILLIAM R. KING, elected by the General Assembly of the State of Alabama, a Senator of that State for six years from the 4th of March next, when his present term will expire; which were read.

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Treasury Notes.

[FEBRUARY, 1841.]

*Treasury Notes.*

On motion of Mr. WRIGHT, the bill to authorize the issue of Treasury notes was taken up and considered as in committee of the whole, and the question being on ordering it to a third reading,

Mr. BENTON asked for the yeas and nays, that he might have an opportunity of recording his name in opposition to this annual Treasury Note bill, which now seemed to come in as a mere matter of course when the Treasury needed money. He was willing to vote for a loan, or for duties on proper objects, if money was necessary—if more was necessary than the current income would supply—but he was averse to Treasury issues of paper, and wished to appear so upon the record. He, therefore, asked for the yeas and nays.

They were ordered.

Mr. B. said he had once voted for a Treasury Note bill—voted for it with extreme reluctance—with an almost inexpressible repugnance—and had no sooner done it than he regretted it. This was at the extra session of 1837, when the Government was suddenly stripped of its revenues by the general suspension of the banks, and when, in the opinion of the Secretary of the Treasury, it would have been impossible to negotiate a loan in time to prevent the catastrophe of a stoppage of payments by the Government. Under such circumstances, he had yielded to the iron hand of imperative necessity, and voted for a Treasury Note bill, which he then hoped was to be the last which he should ever see. Even then he did not yield until every feature of a currency had been eradicated from the character of the notes—until they were placed upon the footing of real promissory notes, to be payable to order, and not to bearer—to be transferable by endorsement—to bear a fair interest—to be payable at a fixed time—and when paid, not to be reissued, but taken up and cancelled like any other paid off and extinguished bond. It was not until the notes were made to wear this form, and were raised in their minimum denomination from twenty to one hundred dollars, that he would consent to vote for the bill. Even then he could not do it without a protest and remonstrance against it. He spoke against it—delivered his sentiments decidedly, if not strongly, in opposition to the policy of the measure; and, with the leave of the Senate, would now read a passage from the speech he then delivered.\*

Mr. B. said such were his sentiments in 1837; they were the same now, and stronger than they were then. All the evils which he then foresaw and dreaded, have been gradually developing themselves since. Three acts for notes had been passed since. The notes were assimilating nearer and nearer to a currency. The hundred dollar limit which he had procured to

be introduced, was reduced to fifty; the interest was sometimes reduced so low as to be made illusory; the notes came to be reissuable, and payable to bearer; the facility of granting them had become so great that the demand was now annual; and the bills passed without the show of opposition. The present bill was put upon its passage without a word being said *pro* or *con.*; it was about to be passed without yeas and nays; it was going through like water, when he (Mr. B.) arrested its progress for an instant, and gave rise to some little discussion—some little show of resistance. Such was the downward progress of the paper money policy. Its course is downward, and rapidly so. The resource was too easy, too seductive, too irresponsible, to be rejected; it has become the ordinary alternative; and unless arrested soon, must eventually run the career, and receive the catastrophe, of all paper money.

Mr. B. said there were but half a dozen Treasury Note acts upon our statute book, and the one-half of these bear date in the last three years. The Administrations of Washington, Jefferson, the two Adamses, Monroe, and Jackson, afforded no instance of a Treasury note bill, although each of these Administrations, except the last, had been a frequent borrower of money, and of sums of all amounts, from as low as forty thousand dollars, and for periods of time of all durations, from a few months to several years. Mr. B. here exhibited the captions of above seventy acts of Congress during the Administrations which he had mentioned, for borrowing sums of money, many of them for the support of the Government, some to enable the Administration, if found necessary, to carry into effect the appropriations made by Congress; and all of them with the ways and means prepared to pay them when due. The old way was to borrow in preference to striking paper, and to lay a tax at the same time to meet the debt and its interest. This was the old way in our Government, and it was the old way in England, when patriots bore sway in that country. It was the responsible and the safe way; for, when a loan was made, and a tax laid, the people would call their representatives to account; they would hold them to their accountability; they would make them give reasons, when they got home, for creating this debt and imposing this tax. Not so with these Treasury notes. They crept into existence without the knowledge of the people; they created no present burthen; they put off the evil day; they avoid accountability; and an issue of tens or hundreds of millions of this paper would find applauders and defenders in nearly all the advocates for a strong and splendid Government—in nearly all the friends of the paper system—in most of the advocates for the relief of the people, the assumption of State debts, and the "*payment*," as it is called, of the fourth instalment.

Mr. B. concluded what he now had to say, on the subject of these Treasury notes, with

\* See vol. 13, *Abridgment of Debates*, p. 365.

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*Nicollet's Topographical Map and Survey.*

[26TH COND.]

saying that experience had developed a new objection to them of the most serious character to the South and West. It was their inevitable tendency and effect to draw the specie of those sections of the Union to the Atlantic cities, where it lay until the rate of the foreign exchanges carried it to Europe. The course was this: These Treasury notes all flowed to the great centre of our moneyed operations—to New York; when due, specie was ordered from the South and West to redeem them; and as there was nothing in the course of trade to carry specie back again, it lay there until events carried it to Europe or the East Indies. This had been the case with the Treasury notes heretofore issued; they had occasioned an immense drain of specie from the South and West; they had done immense injury to the South and West; the same would be the case with all that should be issued hereafter; and he (Mr. B.) would look upon this bill, if it was acted upon to the extent of its limit, as an order to transfer five millions of hard dollars from the South and West to New York and Philadelphia, thence to take its departure to Europe, when the course of trade made it profitable to export specie.

The question was then taken on ordering the bill to a third reading, and decided in the affirmative, as follows:

**YEAS.**—Messrs. Anderson, Bayard, Buchanan, Calhoun, Clay of Alabama, Dixon, Fulton, Graham, Hubbard, Ker, King, Knight, Linn, Lumpkin, Mouton, Nicholson, Norvell, Porter, Rives, Roane, Robinson, Sevier, Smith of Indiana, Tallmadge, Wall, Webster, Williams, Wright, and Young—29.

**NAYS.**—Messrs. Allen, Benton, Clay of Kentucky, Clayton, Crittenden, Henderson, Mangum, Smith of Connecticut, and White—9.

Mr. HUBBARD then moved that the bill be put upon its passage; and no objection being made, it was so ordered; and the yeas and nays being ordered, and the question about to be taken, Mr. CLAY, of Kentucky, assigned his reasons for voting against the bill, and was replied to by Mr. WRIGHT, and a debate ensued, in which Messrs. BENTON, CALHOUN, PRESTON, DIXON, KNIGHT, HENDERSON, WHITE, and SMITH of Indiana, participated, when the question was taken on the passage of the bill, and decided in the affirmative—yeas 28, noes 8

#### HOUSE OF REPRESENTATIVES

FRIDAY, February 12.

##### *Fourth Instalment of Deposits.*

Mr. STANLY, in conformity with notice heretofore given, on the 21st of December last, asked leave to introduce a bill providing for the payment of the fourth instalment to the States, according to the acts of June, 1836, and October, 1837, when the public debt is paid, and to release the States from all obligation to pay either of the instalments.

On the question of granting leave, the yeas

and nays were demanded, and were—yeas 66, nays 83.

So the House refused to grant leave.

#### IN SENATE.

MONDAY, February 15.

##### *The Mormons and their Expulsion from Missouri.*

Mr. LINN said at the last and present sessions of Congress, memorials had been presented from persons who termed themselves Mormons or Latter Day Saints, complaining of the State of Missouri, and extracts from these memorials had been published, and widely circulated, which were calculated to injure the character of the State which he had the honor in part to represent, in the minds of those who were not acquainted with the facts. He held in his hand a transcript of all the legal proceedings which had been had in this case, and in order that the Senate and the country might be acquainted with the facts, he would present them to the Senate, and move for their printing. The document was accordingly ordered to be printed.

TUESDAY, February 16.

##### *Nicollet's Topographical Map and Survey of the Country between the Missouri and Mississippi Rivers.*

Mr. WALKER submitted the following resolution for consideration:

*Resolved,* That the map of the country west of the Mississippi, made under the direction of the War Department by J. N. Nicollet, Esq., and the report in reference to the same, be printed for the use of Congress, under the direction of the Chief of the Corps of Topographical Engineers, and that two hundred copies thereof be delivered to the War Department, and to the bureau of Topographical Engineers, for distribution, and three hundred additional copies for the use of the Senate.

Mr. WALKER said the report of Mr. Nicollet and accompanying map of the region of the Upper Mississippi, prepared under the direction of Congress and the supervision of the Department of War, would be found among the most accurate, scientific, interesting, and instructive, ever made in this country. It commences at the city of St. Louis, at its south-eastern point of departure, and terminates at our northern boundary, east of the Rocky Mountains, extending from the 39th to the 49th parallel of north latitude, and from 90 to 100 of longitude west of Greenwich. Stretching from near Lake Superior on the east to the great western bend of the Missouri River on the west, and embracing the entire basin of the Upper Mississippi, it included a region more extensive than several of the largest States of the Union. It was a region most salubrious, and unsurpassed in beauty and fertility. In mineral wealth it was unequalled in the world, and was interspersed with timber

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*Repeal of the Independent Treasury Bill.*

[FEBRUARY, 1841.]

and prairie lands and many hundred lakes, both fresh and salt, that might well challenge a comparison with those of any other country. This survey embraces 245 geographical positions, deduced from more than ten thousand astronomical observations. An enlarged system of barometrical observations had been carried on for several years, in which Mr. Nicollet had been aided by many scientific gentlemen; and by these means the topographical features of the whole region, and its absolute elevation above the sea, will be represented with the greatest accuracy. The report will represent the geology and botany of the vast region, its vegetable and mineral resources. The report and map will be highly honorable to their unassuming but able and scientific author—to the country by whom he has been employed, and to the Secretary of War, who, with so much zeal and energy, has pressed forward this important work. The rivers Mississippi and Missouri, for several thousand miles, are surveyed and delineated with the greatest accuracy—with all their physical features and incidents—their banks, their hills, and valleys, their channels, shoals, and sand-bars, with the velocity of current and depth of water. To the emigrant, the farmer, the merchant and navigator—to the topographer and geographer—the botanist, the mineralogist, and geologist—to the scholar and statesman, and to the whole country, this was a work of the highest importance. To the American patriot also, whose love of the Union embraced his whole country and all its parts, this report and survey would afford abundant materials for delightful contemplation and animated hopes, in marking the onward progress of this great nation. He would here, in this hitherto almost unexplored region of the West, behold a country larger than any empire in Europe, save one, where, in a very few years, there will be three new States, among the largest and most fertile in the Union—Wisconsin, Iowa, and another embracing the beautiful Fountain Lake near our northern boundary, delineated on this map, where the great Mississippi commences its southern course to the Gulf. As a mere money question, the publication of this map and report would be most important in aid of the final settlement of the great subject of selling our mineral lands, heretofore referred by the Senate to the Committee on Public Lands, and would, he hoped, be decided upon at the next session. Unless important improvements in mining and smelting are introduced, and the utmost facilities afforded in the acquisition of these lands, there was some reason to fear that lead, when the tariff reached its minimum in 1842, could not be brought from the West to the East in successful competition with foreign lead; a result, that by due attention to mining and smelting, and utmost facilities in obtaining these lands, might be prevented, and thus these three great States that must soon emerge from territorial pupillage, might have no inducement presented

to support the high-tariff policy. In this point of view, the question became one of the highest importance to the South, as well as the North; and Mr. W. hoped there would, therefore, be no objection from any quarter to printing this map and report.

Mr. BENTON, in a few remarks, concurred in the views of Mr. WALKER as to the great value of the work, and the propriety of its publication.

The resolution was unanimously agreed to.

SATURDAY, February 20.

### *Election of Printer.*

The Senate then, in pursuance to the order of yesterday, proceeded to the election of Printer.

Mr. MANGUM announced his intention of not voting.

The ballots having been counted, the VICE PRESIDENT announced the vote as follows:

For BLAIR and RIVES,	-	-	-	26
F. P. BLAIR,	-	-	-	1

So BLAIR and RIVES were declared duly elected Printers of the Senate for the 27th Congress.

### *Repeal of the Independent Treasury.*

The resolution submitted by Mr. CLAY, of Kentucky, for the repeal of the Independent Treasury law, with the amendment proposed by Mr. ALLEN, was taken up, and Mr. CLAY addressed the Senate in favor of its adoption.

Mr. ALLEN, after a few remarks in explanation of the motion he was about to make, moved to lay the whole subject on the table, but withdrew it at the request of

Mr. CLAY, who briefly replied to Mr. ALLEN. Mr. WILLIAMS and Mr. WALKER followed, assigning their reasons for the votes they were about to give.

Mr. SEVIER then obtained the floor, and renewed the motion to lay the resolution on the table, giving notice that he would not withdraw it for friend or foe.

The question was then taken on laying the resolution on the table, and decided in the affirmative, as follows:

YEAS.—Messrs. Allen, Anderson, Benton, Buchanan, Calhoun, Clay of Alabama, Cuthbert, Fulton, Hubbard, King, Linn, Lumpkin, Mouton, Nicholson, Norvell, Pierce, Roane, Robinson, Sevier, Smith of Connecticut, Sturgeon, Tappan, Walker, Wall, Williams, Wright, and Young—27.

NAYS.—Messrs. Bayard, Bates, Clay of Kentucky, Clayton, Crittenden, Dixon, Graham, Henderson, Huntington, Ker, Knight, Mangum, Merrick, Nicholas, Phelps, Porter, Prentiss, Preston, Rives, Rugles, Smith of Indiana, Southard, Tallmadge, Webster, and White—25.

FEBRUARY, 1841.]

Death of Judge Barbour.

[26TH CONG.]

MONDAY, February 22.

*Resignation of Mr. Webster.*

The VICE PRESIDENT submitted the following letter to the Senate :

" WASHINGTON, Feb. 22, 1841.

" HON. R. M. JOHNSON,

Vice President of the United States :

" SIR : It is the object of this letter to make known to the Senate the resignation of my seat as one of the Senators from Massachusetts, having already informed the Executive of that State that from this day my place would be vacant.

" In retiring from a situation in which so considerable a part of my life has been passed, I hope I may be permitted to express my high respect for the body of which I have been a member, the interest I shall ever feel in the preservation of its character and dignity, and my cordial wishes for the health and happiness of all those with whom I have been associated.

" With much personal regard, I have the honor to be your obedient servant,

" D. WEBSTER."

And the Senate adjourned.

FRIDAY, February 26.

*Death of the Hon. P. P. Barbour.*

Mr. ROANE submitted the following letter, which was read :

WASHINGTON, Feb. 26, 1841.

SIR : As one of the Senators of the State of Virginia, of which our lamented brother, Judge BARBOUR, was so distinguished a citizen, I enclose you a copy of the funeral ceremonies which have been determined upon.

I am, sir, with great respect,

Your obedient servant,

R. B. TANEY.

HON. WM. H. ROANE,

Senate Chamber.

Mr. ROANE addressed the Senate in the following words :

Mr. PRESIDENT : I ask a moment of the precious time of the Senate : I will not abuse it—for already had the mournful intelligence now officially announced to us reached every member of this body ; and already had the heart of every individual in this community been touched by that pure and exalted feeling which is ever awakened, when the patriot hears that his country has suddenly lost, and that forever, one of its benefactors.

Mr. President, had I the talent and the material, which I have not, to offer a just tribute to the memory of the distinguished Judge, whose funeral we are now invited to attend, I should deem it inappropriate to do so on the present occasion. That task I shall leave in other and abler hands. But knowing, as I do, the exemplary virtues of the deceased, in all the social and domestic relations of life ; knowing, as I do, the exalted estimation in

which his virtues, talents, and patriotism were held in his native State, which I have the honor in part to represent ; and knowing, as does every member of this body, his long, faithful, and valuable public services within the walls of this building, I feel myself authorized to ask the Senate to adopt the resolution I now offer :

*Resolved, unanimously,* That in testimony of their respect for the memory of the honorable PHILIP P. BARBOUR, late Associate Justice of the Supreme Court of the United States, the Senate will adjourn this day at two o'clock, for the purpose of attending the funeral of the deceased.

The resolution was unanimously agreed to.

## HOUSE OF REPRESENTATIVES.

FRIDAY, February 26.

*Death of Judge Barbour.*

Mr. BANKS laid the following letter before the House :

WASHINGTON, Feb. 26, 1841.

SIR : As the Representative of the district in which our lamented brother, Judge BARBOUR, resided, I enclose you a copy of the funeral ceremonies which have been determined upon.

I am, sir, with great respect,

Your obedient servant,

R. B. TANEY.

HON. LINN BANKS,

House of Representatives.

*Order of the funeral ceremonies attending the removal of the remains of the Hon. P. P. BARBOUR, late Associate Justice of the Supreme Court of the United States :*

The Judges of the Supreme Court, with its officers, and the Judges of the Courts of the District, with the members of the bar, will assemble at two o'clock to-day, at Mrs. Turner's, (Pennsylvania Avenue,) and thence attend the remains of the deceased, to the room of the Supreme Court, where the usual services will be performed by the Chaplains of Congress ; and where the President, the Heads of the Departments, the Senators and Representatives in Congress, the members of the Foreign Legations, and citizens and strangers, are requested to attend. After which the procession will move, in the above order, to the steamboat wharf, where the remains of the deceased will be embarked, with proper attendants, in order to be conveyed to his country seat, in Orange county, Virginia, for interment.

Mr. BANKS arose and said :

Mr. SPEAKER : I do not rise for the purpose of interrupting the business of the House, but to announce the death of the Hon. PHILIP P. BARBOUR, late a Judge of the Supreme Court of the United States. In the performance of this painful duty, (said Mr. B.,) no language which I possess is adequate to portray the virtues, talents, and distinguished public services of the individual whose loss we are now called upon to deplore. In all his relations, whether in public or in private, he stood pre-eminent

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*Death of Judge Barbour.*

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for his high honor, and his incorruptible integrity. Whether in the halls of legislation, or engaged in expounding the laws of his own State, or of the Union, he was always prompt, impartial, and able. In 1812, when war was declared against Great Britain—the second Declaration of Independence—when the political horizon was darkened o'er with portentous clouds—Judge BARBOUR was elected a member of the Legislature of Virginia from his native county of Orange. He served his constituents at this important crisis of our history with distinguished ability in sustaining the interest, the honor, and the glory of his country. In the month of May, 1814, he was elected a member of the House of Representatives of the United States, and served from that time, without intermission, and with the entire approbation of his constituents, until 1825. During that eventful period, he was the Speaker of this House from December, 1821, to March, 1823. In 1825 he was elected by the Legislature of Virginia, a Judge of the General Court of that State, the duties of which station he discharged with great ability, and to the satisfaction of all parties interested.

In 1827, Judge BARBOUR was called upon by some of his old friends in the Congressional District in which he resided, to become a candidate for Congress. He promptly obeyed the call, and forthwith resigned his judicial station, and was again elected to Congress without opposition. He served until the end of the first session of the 21st Congress in 1830, when he was appointed a judge of the federal court for the Eastern district of Virginia. He continued to discharge the duties of that office until 1836; at which time he received the appointment of Associate Justice of the Supreme Court of the United States.

Judge BARBOUR was a member of the Convention which assembled in Virginia in 1829, to amend the constitution of that State, and was president of the Convention, which contained some of the most distinguished men of Virginia, among whom were Judge MARSHALL, JAMES MADISON, JAMES MONROE, WM. B. GILES, LITTLETON W. TAZEWELL, and others of distinguished abilities.

I have attempted, Mr. Speaker, to give a brief epitome of the public stations voluntarily bestowed upon PHILIP P. BARBOUR by his countrymen. I say voluntarily, because he was one of those high-minded and honorable men who never sought office. His high commanding talents and virtues made him one of Virginia's most distinguished sons. In the discharge of all the high duties devolved upon him, his course was marked with great ability; and, above all, his motives of action were never suspected. He was connected with a numerous train of friends and relatives, and beloved by all. If he had an enemy on earth, he did not know it. No man stood higher than Judge BARBOUR for his purity of character, and his high and ennobling virtues. No

language can describe them. He was a kind, tender, and affectionate husband, father, and friend, and a humane master.

I can only say, in conclusion, that his sudden death admonishes us all of the sacred volume, which declares "that in the midst of life we are in death."

I move you, Mr. SPEAKER, that the House adopt the following resolution:

*Resolved*, That the House have learned with deep sensibility the decease of the Hon. PHILIP P. BARBOUR, for many years a member, and late Speaker of the House of Representatives of the United States, and at the time of his death an Associate Justice of the Supreme Court of the United States, which melancholy event took place suddenly in the city of Washington on the 24th of February, instant; and that, as a mark of the respect entertained for the memory of the deceased, this House will adjourn at two o'clock this day, for the purpose of attending the funeral of the deceased, and will at four o'clock of the same day reassemble in the hall of the House for the despatch of the public business.

Mr. WISE, after cordially uniting in the sentiments just uttered, expressed his regret that Mr. BANKS had not consulted with his colleagues before he offered his resolution. With all due respect, Mr. WISE said he could not vote for it, for the reason that a mightier man than Judge BARBOUR had fallen, and whose death was not even announced to the House. He meant the illustrious father of the judiciary, JOHN MARSHALL. He would ask his colleague to withdraw the resolution, and not compel him to vote against it.

Mr. BANKS said it so happened that, at the time Judge MARSHALL died, Congress was not in session, nor was the Supreme Court in session; besides, the event took place in another city. The Supreme Court was now in session, and the Senate had adopted a similar resolution unanimously. Mr. B. paid a high compliment to the talents and virtues of Chief Justice MARSHALL, and said there was no man to whose memory he would more cheerfully pay a tribute of respect. Mr. B. remarked that when the death of the Hon. WM. WIRT was announced to this body, although he was at that time a private citizen, the House, on motion of the venerable gentleman from Massachusetts, (Mr. ADAMS,) adjourned. Mr. B. stated that he had consulted with several of his colleagues, but having just received the communication from the Chief Justice, it had not been in his power to consult with Mr. WISE. He hoped this explanation would be satisfactory.

The resolution was then adopted.

#### EVENING SESSION.

At four o'clock, P. M., the House met.

After some debate of a conversational character as to the propriety of ordering a call of the House,

On motion of Mr. JONES, of Virginia, the House resolved itself into a Committee of the



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Navy Appropriation Bill.

[26TH CONG.,

Whole on the state of the Union, (Mr. McKAY in the chair,) and resumed the consideration of the

*Naval Appropriation Bill.*

The question pending was on the modified amendment of Mr. SALTONSTALL, to strike out "\$1,425,000 for the increase, repair, armament, and equipment of the navy, and wear and tear of vessels in commission," and insert "\$2,400,000, of which sum \$400,000 shall be expended in building and equipping war steamers of medium size."

Mr. FLOYD said he wished to state very briefly his objections to this proposition of the gentleman from Massachusetts, (Mr. SALTONSTALL,) to increase the appropriations for the naval service, half a million of dollars beyond the amount deemed sufficient by the Secretary of the Navy, and which had been reported by the Committee of Ways and Means. He regretted that the propriety or impropriety of this amendment could not have been discussed upon its merits, without the disparaging remarks upon the present condition of the navy, in which some gentlemen had indulged, and which they had appeared to consider necessary in urging this amendment upon the committee. He would not proclaim his attachment to this proud arm of our national defence, nor would he build a man of straw, to show his prowess in demolishing him, by supposing that there was a man upon this floor opposed to the navy. Upon other subjects we may have sectional feelings of interest, or may be influenced by State pride—one may boast of his Bunker Hill—another of the plains of Saratoga—another of Yorktown—but all, all glory in the achievements of our navy, and all here, he had no doubt, were ready and willing to make such liberal appropriations as would sustain its honor and efficiency.

But he would bring to this and every other subject under the control of Congress, the same wise and prudent principles which are applicable to the ordinary affairs of life—and those principles required that in making this appropriation, regard should be had to other and equally urgent claims upon the public Treasury, and to the probable amount of revenue for the coming year. Mr. F. asked if those who urged this increase of half a million, were aware that the bill already appropriated five millions and a quarter for the naval service? And was this a niggardly appropriation? Was it not liberal, considering that it amounted to one-quarter of the whole estimated revenue for the current year, and considering, too, the other duties which this Government is bound to discharge? This amount is deemed sufficient by the officers of the Government, who have the best means of forming an opinion upon this subject, and Mr. F. believed that with economy and good discretion in its disbursement, it would be found ample to sustain the Naval Department in all its necessary

operations, and give a respectable increase to our naval force.

Sir, said Mr. F., notwithstanding the reflections which have been cast upon our navy, I insist that it has performed every duty which has been required of it, and has answered every beneficial object of its establishment. Our commerce has been protected on every sea. In the single instance of insult to our seamen which has occurred in many years, and that by a barbarous people, chastisement was promptly and effectually administered, and redress demanded and obtained; and at this moment the lightest shallop that dare venture her frail sides upon the mountain wave, may fold her wings in safety in every port of the civilized world under the simple protection of the stars and stripes.

I deny, said Mr. F., that our flag has been insulted again and again for want of an efficient maritime force, as has been alleged by the honorable member from Maine, (Mr. SMITH.) We have heard rumors, it is true, recently, of detention of several vessels by British cruisers on the coast of Africa, but we have heard but one side of the story. These matters are proper subjects of inquiry by our Government; and if these detentions were without excuse, they are proper subjects for a demand for redress. But there may be palliating circumstances. These vessels may have been found under suspicious circumstances, though, in fact, driving a legal traffic. It should be remembered that the detentions complained of were made upon the African coast by the vessels of England stationed there for the suppression of the slave-trade—a most honorable undertaking, in which I hope she may be eminently successful. She has reaped profit enough from her unjust aggressions in other parts of the world to enable her to be humane where she can gather nothing by conquest. Africa offers nothing to her rapacity but flesh and blood, of which she has already more than she can well take care of; and, therefore, affords a proper field for the exhibition of national virtue, because there is no temptation to be unjust.

Complaint has also been made that, during the recent difficulties between Great Britain and China, our nation was not properly represented, nor our commerce protected in the Chinese seas by our vessels of war. Why, sir, do not gentlemen know that representations were made here by those interested in the Chinese trade, that it was inexpedient to send a fleet there; that American interests there were in no danger; that our merchantmen were profiting by the troubles between England and China; and that an armed force there might do more harm than good, by exciting the jealousy or suspicions of that peculiar people? Sir, said Mr. F., gentlemen are mis-

\* These were the representations of practical men—merchants, bred in the school of business, and well read in the

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Navy Appropriation Bill.

[FEBRUARY, 1841.]

taken. Our flag is known, and respected wherever a vessel can float in the known world, and it is related of the late Sultan, that before he knew any thing else of America, he acknowledged that he had "heard of a fellow with a blue jacket who had flogged John Bull on the ocean."

Our present navy consists of sixty-eight sail, of which thirty-six are now in commission. Will any one say that is not enough for a peace establishment? The Secretary of the Navy informs us that it has been found sufficient for all the purposes of a navy in time of peace; and the sum of six hundred thousand dollars of the naval appropriations of last year remains unexpended, because it was considered unnecessary.

Gentlemen have compared our navy with that of Great Britain. Sir, it is not to be expected, nor is it desirable, that our navy should equal that of Great Britain. We have no colonies to keep in awe—we have no negotiations which it is necessary to conduct under the influence of a large fleet—we have no entangled alliances to guard, nor are we surrounded by ambitious States, ever ready to take advantage of any moment of apparent weakness. The material of which our naval force must be composed, is now employed in more profitable avocations than the public service. Our navy must grow with a necessity for a navy. Napoleon's wars made Napoleon's marshals; and when the naval service offers the proper inducements, in the shape of pay or in honor, a force can be gathered from your coasters, your fishing vessels, and your merchantmen, such as the world has never yet seen for bravery, enterprise, and every quality which can insure the honor and safety of our country. In a young and peaceful nation like ours, where every avenue of business is more inviting than the public service, it is not surprising that the naval spirit should fall somewhat to decay. What inducement has a man of ability and enterprise who can earn his bread in any other way, to embark for a three years' voyage in a man-of-war, to leave behind nearly all the attachments of life, to endure, as Dr. Johnson says, all the privations of a prison, with the additional risk of being drowned. But the naval spirit "is not dead, it sleepeth;" and the first gun which shall boom across the water, will awaken it, refreshed and invigorated, "like a strong man to run a race."

Another reason has been urged, said Mr. F., why this amendment should pass, and that is the present state of our foreign relations and the possibility or probability of a war. He considered this entitled to less consideration than any other which had been mentioned. It was conceded that we were in no danger of collision with any power except England, and he would imagine no such extremity of

folly in the year 1841, as it would be on the part of Great Britain to declare war against the United States. What is, and has been, the national policy of Great Britain? Why, sir, to talk of glory and to fight for gain—and surely there is nothing in this country which can excite her cupidity; which would pay the cost of taking. What must be the inevitable, to say nothing of the probable, consequences of such a war? Sir, put down the certain and immediate loss of her North American Colonies—the destruction of her manufactures, by cutting off the supply of the raw material which gives her operatives employment, the destruction of the best market for her manufactured articles; added to this, that she suspends, perhaps extinguishes, a debt due to her citizens, it is said, of some two hundred millions of dollars. Besides, sir, has she no unsettled questions with her European neighbors, or, if there are none, may they not be raised when her neighbors think a favorable opportunity occurs for a successful negotiation? Is not France almost "sick of a calm?" Is she not her "natural enemy?" and does she not now possess the abundant means, as she ever has had the inclination, for an encounter with England? Has not Russia, in her eastern progress, already reached the confines of the British possessions? But, aside from all these collateral considerations, what *can* England gain by a war with us? Nothing, sir, nothing. The utmost she can do is, the destruction, perhaps at the onset, of some maritime towns, which would not weaken our ability by the strength of a single man, or the value of a single dollar; as to conquering a foot of American soil, no man in his senses ever thinks of it. Sir, said Mr. F., I have but glanced at a few of the considerations which, in my opinion, show that we are in no danger of war with England; and all these things she knows, as well as we do; she knows our strength and our resources; she knows that a war begun is not to be ended in a day; she has had a "taste of our gifts" in the Revolution, and again in the last war; and within the last few years she has seen a specimen of the stuff of which American militia are composed, which will not suffer by a comparison with Bunker Hill or the San Jacinto. I allude to that most unfortunate occurrence, the battle at Windmill Point.

Let me add, Mr. F. continued, that in my opinion there is not, and has not been, any cause for collision between the two countries. The correspondence between the two Governments on the questions at issue, which has been carried on both here and at London, is, in my opinion, in all respects creditable to the present Administration. And notwithstanding the odium which a reckless party has sought to heap upon the Executive for pusillanimity, for cowering before the British lion, I was pleased to hear my honorable colleague, (Mr. GRANGER,) but a day or two ago, express his approbation

book of nature; and very fit to give counsel to Government on such an occasion.

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of the negotiations as conducted by this Government. On this subject all has been done which the honor of the country required; and I shall be content if the coming Administration do as well. Again, it is argued that the report of the Committee on Foreign Affairs, lately made to the House, is calculated to produce dissatisfaction on the part of the English Government. I have read that report, and I approve of it—it speaks out boldly in terms worthy of the nation, and will, I doubt not, find a hearty response in the bosom of every patriot in the country, and especially among those on the Northern frontier, who feel the deepest interest in the questions discussed in that report. The language of that report, said Mr. F., falls far behind, in spirit and force, the language of the public press on the frontier, where the public mind has been most excited on this subject. True it is, sir, that much of that excitement has been created by political demagogues for the basest party purposes, and when the debate took place here on the motion to print that report, and my honorable colleagues from Erie and Ontario objected to the violence of its language, it occurred to me that those whose friends had rode into power upon the whirlwind, already began to tremble, lest, now that they are about to assume the reins of Government, they should be unable to direct the storm.

I shall mention, continued Mr. F., but one other reason why I shall vote against this increase of the naval appropriation. I am not disposed to treat the recent election as if it had not taken place. The people were told that the expenses of the Government were too great; and if the gentlemen of the successful party have forgotten the pledges of retrenchment they made before the election, I have not; and I assure them that so far as my vote is concerned, both in this Congress and the next, "the economy they teach I will execute, and it shall go hard, but I will better the instruction."

Mr. JONES, of Virginia, observed, that after the able speech of the gentleman who had preceded him, it would be hardly necessary for him to say a word. He would, nevertheless, submit a few facts, by way of correcting the erroneous impression which was likely to be made on the public mind, by the remarks of gentlemen who considered the navy had been neglected. After noticing the various and contradictory statements which had been given by members of the Opposition in relation to the condition of our navy, Mr. J. referred to authentic documents to show what was the actual condition of that branch of the public defence, and that it was *not* in the "ruinous and dilapidated" condition as was represented.

Mr. J. then read from official documents to show that we had now twenty-six vessels in commission, and that these twenty-six were so arranged as to afford an effectual protection to the commerce of the country.

After showing the great and gradual increase

of the navy for the last fifteen years, Mr. J. said he referred to those facts to show that *much* had been done to strengthen this arm of our national defence, and that a larger amount of money had been appropriated than was thought necessary to be used.

He then called attention to the preparations made by the Navy Department so as to put it in the power of Government, in case of emergency, to bring into service almost any amount of vessels that might be required.

Gentlemen appeared to have lost sight of the fact that contracts had been entered into by the Department for frame-timbers of a great number of vessels, which frame-timbers were seasoning and being prepared in a proper shape, ready to be put together when required. From the document appended to the report, it would be seen that contracts had been made for frame-timbers for

15 ships of the line,  
18 frigates,  
15 sloops of war,  
9 steamers,  
9 brigs and schooners,

besides copper, iron, &c.

Here, then, was the wood seasoning and being prepared in a proper shape, ready for putting together this great force, whenever an emergency might arise.

Mr. J. then read from the report to show what number of the above were actually complete and required nothing more than putting together. This, in addition to the increase of the navy during the last ten years, would exhibit a state of preparation which certainly could not have been borne in mind by the gentlemen who had addressed the committee.

Mr. PROCKENS said it was his intention to vote in the first instance for the amendment of the gentleman from Virginia, (Mr. MALLORY,) and then to have voted against the amendment of the gentleman from Massachusetts, (Mr. SALTONSTALL,) as amended. He had intended to do that because, at this time, he felt it his duty to go against all further appropriations than \$1,425,000, as reported in the bill.

The CHAIR observed that there was but one amendment then pending, that of the gentleman from Virginia, having been accepted by the gentleman from Massachusetts, as a modification.

Mr. PROCKENS said he would then vote against the whole proposition to amend, as he considered \$1,400,000 amply sufficient for all practicable purposes, at the present time. He protested against any action being had with a view to a contingency, or any legislation being based on the expectation of war. If that were the *real* aspect of things, the sum proposed by the amendment would be a mere bagatelle; instead of such a paltry amount, they would want *millions*; and he, in such a state of things, would be ready to vote for ten millions instead of \$1,425,000. But, at present,

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*Reorganisation of Judicial Circuits.*

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he did not desire any thing to be done which looked towards war. There was no necessity for it.

Mr. P. went on to say that when the proper time should arrive for a revision of the tariff, he then would pledge himself to go with gentlemen of the North for such a tax as should be amply sufficient for every want of the country. But let gentlemen wait until the time should arrive, for he protested against this legislation by piecemeal. At this late period of the session, now that four days only remained, we were not prepared to do justice to the subject referred to by the mover of the amendment. But if any thing should occur, which might lead to a war, he trusted that an extra session would be called, and that *then*, when the case would actually exist, they would act like a free people. But at present he would raise his voice against any legislation looking towards war.

The question was then taken on the amendment of Mr. SALTONSTALL, as modified by Mr. MALLORY, as follows:

"For increase, repair, armament, and equipment of the navy, and wear and tear of vessels in commission, \$2,000,000; \$500,000 of which sum shall be expended in building and equipping war steamers of medium size."

And decided in the negative—ayes 62, noes 67.

SATURDAY, February 26.

*Reorganisation of Judicial Circuits.*

Mr. CLAY, of Alabama, then offered the following amendment, explaining the reasons which induced him to offer it:

"That hereafter the eastern and western districts of Pennsylvania and the district of New Jersey, and the district of Delaware shall form the third circuit; the district of Maryland and the eastern district of Virginia shall form the fourth circuit; the district of North Carolina, the eastern and western districts of South Carolina, and the district of Georgia shall form the fifth circuit; the southern district of Alabama, and the Eastern district of Louisiana shall form the sixth circuit; the southern district of Mississippi, the eastern and middle districts of Tennessee, shall form the eighth circuit; and the district of Arkansas, the district of Missouri, and the district of Kentucky shall form the ninth circuit.

"Sec. 2. And be it further enacted, That the circuit court for the district of Arkansas, shall be holden on the fourth Monday of April, and the fourth Monday of October in each and every year; and it shall be the duty of the associate justice of the Supreme Court allotted to the ninth circuit, to preside at the spring term of the circuit court of the district of Arkansas; and the associate justice of the Supreme Court allotted to the eighth circuit, to preside at the spring term of the circuit court, for the southern district of Mississippi, which shall be holden on the second Monday in December."

Mr. ROANE said he would not reconcile it to himself to permit this question being taken, without offering a word or two on the subject. If he understood aright the amendment just offered and read to the Senate, its objects and effect is to abolish, to obliterate from existence, the ancient judicial circuit composed of the States of Virginia and North Carolina! Never was he taken more by surprise than now! Without the time and the means of giving due consideration to the reasons we have just heard in favor of this measure, and without the possibility of any express knowledge of the wishes of these two long-associated old States in regard to the proposed severance, I but yield to the impulse of the moment in rising in my place and entering my solemn and earnest protest against the proceeding. I protest against it, sir, because at this last hurried moment of an expiring session of Congress, it is impossible that such a change as this can be made with that deliberation which a due regard to the wants and interests of all the parts of the Union requires at our hands. I protest against it, sir, because if a general change is required so as to equalize the labors of all the judges, I cannot see why this particular circuit is to be made the point of departure, and thereby cut in twain, merged into two other circuits, and thus blotted out from her old position on the judicial map of the Union.

Mr. President, these are two of the old Atlantic States of the good "old Thirteen." They embrace a long extent of seaboard, and from their local position, and long standing judicial connection, are certainly entitled to consideration. The reasons assigned for this measure are, first, the long travel of some of the judges of the West and Southwest to their courts; and second, the heavy dockets they find in them. The first is caused by the extensive territory and sparse population of these States, and must soon be obviated by the strong stream of immigration which is rapidly filling up our wilderness. And as regards the second reason, if there is now but little business in the circuit proposed to be abolished, I am very thankful for it, as it indicates two things: that our citizens are free from debt, and that our country is at peace with foreign nations. If there be, as is alleged, an unusual crowd of business at this time in the courts of the Western and South-western States, no man deploras more than I do the state of indebtedness which it indicates. But that state of things cannot always be. The deranged state of the currency, and the rage for speculation and wealth, which has caused this heavy mass of litigation in these courts, cannot always be; nor can peace always exist. And it should be borne in mind that, in time of war, when some of those courts would feel no *consequent* accession of business, the circuit proposed to be *sponged* would, from its local position, necessarily have thrown into its courts maritime and admiralty busi-

ness. But, sir, it is not to the precise *quantum of court business* to which I look in this matter; for that cannot be kept equalized amongst the circuits, except by a legislation too frequent for the necessary permanency of any system. It is to the local position of this circuit—it is to the section of the Union in which it stands—it is to the position it has so long and so honorably occupied on the judicial map of the country, that I look. And, sir, it is the causes which come before the Supreme Court, no matter where originating, involving her dearest constitutional rights, that add to my feeling on this subject. But, Mr. President, if a new arrangement of the judicial circuit is necessary to equalize the labors of the judges, why not, let me ask, add to this old circuit her sister South Carolina, or her beloved daughter Kentucky, or her respected neighbor Tennessee, and thus obviate the evil complained of, and at the same time preserve this old circuit and its homogeneous character. I am certain, sir, that there is no reasonable expansion of this circuit which the public weal may demand, to which it would not cheerfully yield. But, sir, whilst it is at this moment submitting, in mournful resignation, to the late heavy dispensation of Providence, which has suddenly deprived it and the country of an eminent jurist and judge, I do hope that this body will pause before it avails itself of that dispensation as a reason for striking from existence a circuit almost coeval with our judicial system, and which, to say the least, has never yet impaired its strength, or disturbed its symmetry. I have thought these hasty remarks due to my position here on the present occasion; and however they may be received, and whatever may be the fate of the proposed measure, I feel that in making them I have done my duty.

Mr. CLAY, of Alabama, said, for the last few years there had been more or less said about the inequality of the duties of the members of the Supreme Court; and in 1837, as would be recollected, he submitted a resolution calling upon the Secretary of State to furnish information respecting the number of suits tried, and the number of miles travelled by each judge, with a view to an equalization of the labors of the judges. The return of the Secretary was then in his hand, and it showed that the West and the South-west furnished much the greater part of the business of the Union; but there had been difficulties in the way of any alterations of the different circuits, and the proposition made for the purpose was voted down. But a late melancholy and deplorable event which had occurred, (the death of Judge Barbour,) had obviated the difficulties that were previously in the way, if the Senate thought proper now to act, and there would be no violation of good faith with the judges. And what objection could be opposed to the proposition now before the Senate? Because a State had heretofore had, should a State always

have a judge appointed from, and resident within, her limits? He felt for Virginia as much veneration as any other honorable Senator, and he was as ready to see that she had a just participation in all that was enjoyed by the other States; but did they not know that Virginia had had a judge of the Supreme Court almost for the last forty years, when associated with North Carolina? Really, complaint from Virginia came now with a very bad grace; it would come with a better grace from North Carolina, which, during the period he had mentioned, had not been represented in that court. But this was a question in which the public interest was involved; it was a question how the circuits could be best arranged, so as to promote a proper discharge of judicial duties, and how the public interests could be best taken care of and best despatched. The arrangement now proposed was to add Virginia to the circuit in which the Chief Justice resided, and to add North Carolina to the circuit in which Judge Wayne resided. And what was the objection, unless it was that one State should always have a judge? This was no valid objection. If any claim existed, it was that of North Carolina. But the present judge of the circuit to which North Carolina was now proposed to be added, was fully competent to the performance of the additional duties that would devolve upon him, and when he should resign, or his seat should be vacated in any other way, North Carolina would then be entitled to consideration. But there was no objection; and he hoped that they would not pass over the auspicious moment which then presented itself to equalize the duties of these judges. He then referred to the report on his table, to which he before referred, to show that there should be some modification of the circuits. The honorable Senator read largely from the returns of judicial business on the circuits, by which it appeared that the business of the other circuits was very inconsiderable, as compared with those of the Southern and South-western circuits, and he invited the attention of the Senate to the state of the business, that they might see how impracticable it was that the judges of those circuits should do justice to themselves and to the country. The amount of business was too great to be despatched by the judges to whom it was assigned; and should they then, by a reference to any supposed claim of any particular State or individual, and in disregard of those who were so nearly interested, refuse to equalize the amount of labor which the judges bear? He trusted they would not; and he hoped they would put the court on a footing, in special reference to the public interest, against all other interests and considerations whatever. Virginia had no claim which should operate to the rejection of this proposition. He had said that she had had one judge for the last forty years; but he had not stated the whole truth, for she had

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*Reorganization of Judicial Circuits.*

[FEBRUARY, 1841.]

not only had the Chief Justice but one of the Associate Judges also. He was not disposed to do injustice to any one; and he was satisfied that no injustice would be done by the adoption of this measure. It was an arrangement which met the approbation of all the judges on the bench, and he was of opinion it should receive the acquiescence of the Senate. He hoped the Senate would adopt the amendment he had proposed.

Mr. CLAYTON suggested a modification of an amendment by which Delaware would be included in the fourth district; which was accepted by Mr. CLAY.

Mr. HUNTINGTON supported the proposed change in the arrangements of the circuits as conducive to the public interest, and contended that every other State had as good a right as Virginia to a judge to reside within their limits.

Mr. KING rose to say that if the Senate should debate this bill, they might as well lay it on the table; for unless it was sent to the other branch of Congress to-day, it could not be sent at all, without a suspension of the rules, in which the other House must concur. He (Mr. KING) was in favor of the bill, and he intreated gentlemen who might likewise be favorable to the measure, not to consume the time with a lengthened debate, for they might just as well vote it down at once.

Mr. MANGUM said in a short time the West would require more judicial aid, and he supported this proposition because he was unwilling to see the bench of the Supreme Court increased in number. In times of peace, the business of the court, in his own State, could be despatched in two or three days; in times of war, the business would be increased, but when it became necessary, it would be easy to detail more force to that part of the country. But in order to keep down the number of Judges in the Supreme Court, it became necessary to re-arrange the circuits.

Mr. SEVIER sent to the Secretary's desk, to be read, a letter which he had received from Judge Oraton on the subject, and in favor of this arrangement.

The Secretary having read the letter,

Mr. MANGUM asked if he were to understand that Virginia and North Carolina were to be separated.

The PRESIDENT replied in the affirmative.

Mr. MANGUM said he had not so understood it.

Mr. HUNTINGTON arose amidst a cry of "question," and he gave way to

Mr. ROANE, who called for the ayes and noes on the amendment.

Mr. BENTON was opposed to the amendment, and he would state some of his reasons. Some years ago, when the judicial circuits were increased, he showed his anxiety to have an equalization of the circuits for the West; that desire had increased, and continued to increase, and could not be prevented increasing by an

action on this bill. They had two Territories in the North-west almost ready to be admitted into the Union; they might expect to hear their taps at the door of the Senate Chamber very soon, demanding admission; the South, too, had a Territory almost ready for admission into the Union; and if there was to be any change now, he should desire to see two new circuits for the West. He was in favor of increasing the number of judges in the Union; he wanted to see as many as there were in Great Britain. He desired to see at least as many judges to take cognizance over 1,500 miles square, to take cognizance over the laws and the Constitution of the United States, and the laws and the Constitution of the several States, as there were in England to take cognizance over a territory in extent not more than equal to one of our large States. He was in favor of seeing twelve judges of the Supreme Court. But the condition of the dockets he looked upon as accidental, and the quantum of business, he was of opinion, should not be taken exclusively as the rule to govern them. He looked upon the circuit judges—for all were circuit judges—in a two-fold character; they had power to act as judges of their circuits, consisting of one, two, or three States, and as judges here of the whole Union; and therefore he should be opposed to striking Virginia and North Carolina from the judicial map of the country. He was in favor of the different sections of this Union being represented on the bench of the Supreme Court, for the highest functions were the duties they were called upon to discharge here: they had to pass judgment on the laws of the Union and of the States of the Union, and whatever was their decision, no matter who were the parties—and one case was now depending—the case of the Africans—of great interest to this country—the decision became binding and obligatory all over the Union. And by whom were these cases decided? Not by the district judges, but by all the judges of the Union, at the metropolis of the Union, and he was not willing to strike Virginia out of the judicial map of the country. He now spoke as a citizen of the Union, interested in the construction of the Constitution of the Union, of the laws of Congress, and of the State laws, the whole of which came before the judges of the Supreme Court: he felt desirous that to determine these weighty matters, there should be an ample number, and that they should be brought from every great section of the country. Could they dismiss such States as North Carolina and Virginia, great as they were in extent and Revolutionary in their character, and belonging as they did to the original thirteen? Could they have the different sections of the Union represented on the bench of the Supreme Court when two such States were struck from the map? And if it were done, how long did they think it would last? He would answer the question

himself—from the 4th of March to the 17th of May, which he understood was the day fixed upon for the meeting of the extra session. He was opposed then to this amendment, on important grounds, leaving entirely out of view the quantum of business the judges might at one time or another perform. The West needs more circuits—the bench of the Supreme Court needs twelve judges, and so far as his judgment went, they ought not to be put off with nine. He should therefore join the Senator from Virginia (Mr. ROANE) who had spoken against the proposition, Western man as he was.

Mr. BUCHANAN said the question was within a very narrow compass. It was simply this: Shall we prolong the existence of a judicial circuit east of the mountains, which is not at all required to transact the judicial business of the country; or shall we abolish it, and in its stead establish a new circuit in the South-western portion of the Union, where it is so much wanted that it is now physically impossible for the circuit Judge there to transact one-half the business, or even personally to attend all the courts appointed by law to be held. This was most certainly the true state of the case; and under such circumstances, he did not believe that the people of Virginia, merely for the sake of obtaining the appointment of an unnecessary judge, would deprive their fellow-citizens of the South-western States of a court which was absolutely indispensable to their best interests.

The present number of judges on the bench of the Supreme Court was already greater than he could have desired. Nine was too large a number, if it could have been avoided. He would not go into the general question at the present moment, but he believed he was fortified in this opinion by all experience. It might become absolutely necessary to increase this number; and in that event, but in no other, should he ever give his consent to it. The question, then, with him, would be, did the transaction of the necessary business of the courts absolutely require an increase of the number of the judicial circuits? If it did, he might then feel himself constrained to add to the number of the judges. Fortunately, no such necessity at present existed, nor would, he believed, for many years to come, in case the present amendment should prevail. The fifteen States east of the Alleghany Mountains had now six of the nine judges, whilst the eleven Western and South-western States had only three. The business in the three Southern Atlantic circuits was notoriously inadequate for the employment of the judges. Maryland and Delaware constituted the present circuit of the Chief Justice; and he had expressed his entire willingness to hold the circuit courts in Virginia, should this be required by Congress. He would experience no difficulty whatever in transacting the circuit court business of these three States; and even with this addition, a great portion of his time would be unemployed. The same

might be said of Judge Wayne, whose present circuit consisted of South Carolina and Georgia. He was willing to hold the circuit courts in North Carolina, and could do it without inconvenience. Indeed, there was comparatively but very little circuit court business in any of the Atlantic States south of Maryland. The judges of the Supreme Court themselves were convinced of the propriety of abolishing the Virginia and North Carolina circuit, and giving the new judge to the West; and, in contemplation of this change, they had made the arrangement proposed by the present amendment, which would enable nine judges conveniently to transact all the judicial business of the country.

What utility, then, was there in continuing the Virginia circuit? The public interest did not demand it—the public good did not require it. Nothing could be said in its favor, unless it might be the question which had been asked by his friend from Virginia, (Mr. ROANE.) Would you blot out of existence the ancient circuit of Virginia and North Carolina? I answer, yes, if time and experience had shown its existence to be unnecessary, and even prejudicial to the public welfare, by preventing another portion of the Union from obtaining a judge, where such a judge was imperatively required. It ought not surely to wound the feelings of the people of the Old Dominion, to be united to Maryland and Delaware for judicial purposes, when such a union was necessary to promote the public welfare. This was not a question of pride, but of principle. He might say the same of North Carolina.

Placed in similar circumstances, he might probably have acted as his friend from Virginia (Mr. ROANE) had done. Our feelings were naturally very strong for our respective States, and these feelings were highly honorable. It was, however, his duty to decide this question impartially, and he had never felt less hesitation in deciding any question than the present.

The inscrutable decree of an all-wise Providence had created a vacancy on the bench of the Supreme Court, by the death of a judge whose loss we all deplored. This enabled us to abolish a circuit wholly unnecessary in this portion of the Union, and create a circuit in the South-west, where a new circuit was indispensable, without increasing the number of the Supreme Court judges. He thought it wise to embrace this opportunity. If you once appointed a judge for the Virginia circuit the case was hopeless. You could not then break up his circuit and ask him to transfer his residence to the far West. No judge would ever be transferred by Congress, against his will, from the East to the West. Who would have thought of making such an attempt in regard to Chief Justice Marshall or Judge Barbour, although the business in their circuit was comparatively so trifling? It would have been cruel as well as unjust. The present, therefore, was the

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propitious moment when such an arrangement could be made, and when the public might be accommodated without doing injustice to any human being.

He need scarcely repeat, that in the vote which he proposed to give, he intended no disparagement to Virginia or North Carolina. The whole country ought to feel grateful to Virginia for the distinguished luminaries which she had furnished to the bench of the Supreme Court; but as five circuits on our Eastern maritime frontier were, in his opinion, abundantly sufficient to transact all the judicial business, he would not prolong the existence of the sixth, merely for the purpose of enabling Virginia to furnish another judge to the Union.

He was sorry to entertain but a feeble hope of the passage of the bill. Its friends ought to have first tried it in the other House, and if it had passed there, he presumed there would have been but little difficulty here. If we should pass it, of which he entertained no doubt, he feared it never would be touched by the other House.

Mr. WALKER spoke in favor of the bill, contending that to refuse to pass it was virtually denying to the South-west her full participation in the blessings of the judicial system, observing at the same time that he conceived it peculiarly due to the State of Mississippi.

Mr. RIVES said that he should vote for the bill. He felt himself safe in following the lead of the distinguished Senator from Pennsylvania, (Mr. BUCHANAN,) whose former position as a member of the Judiciary Committee justly gave his opinion great weight on this subject. He had therefore made up his mind to vote for the proposition before the Senate. It seemed just, and right, and proper; and he did not see how the rights of the State of Virginia were to be considered as involved in the matter. He wished to act in a national spirit; and he thought this was an occasion which ought to be improved in reference to the West and South-west, without any inconvenient increase of the judges.

Mr. BENTON said, since he had last addressed the Senate, a few moments ago, he had been informed that the number of judges in England was greater than he had stated. They had been twelve in number for several centuries, but within the last few years they had been increased to fifteen.

The vote was then taken on the amendment, which was adopted, as follows:

YEAS.—Messrs. Anderson, Bates, Bayard, Buchanan, Clay of Alabama, Clay of Kentucky, Clayton, Cuthbert, Dixon, Fulton, Henderson, Huntington, King, Ker, Knight, Linn, Mangum, Merrick, Mouton, Nicholson, Norvell, Phelps, Porter, Prentiss, Rives, Robinson, Ruggles, Sevier, Smith of Indiana, Southard, Tallmadge, Walker, Williams—34.

NAYS.—Messrs. Allen, Benton, Calhoun, Graham, Hubbard, Lumpkin, Pierce, Roane, Smith of Connecticut, Sturgeon, Tappan, Wall, and Wright—13.

Mr. SMITH, of Indiana, then submitted another

amendment, which was also adopted. The bill was then reported to the Senate, and the amendments adopted as in Committee of the Whole, were concurred in, and the bill was ordered to be engrossed and read a third time.

The bill was subsequently read a third time, and passed.

## HOUSE OF REPRESENTATIVES.

SATURDAY, February 27.

*Appropriation for the Florida Indian War:*

Mr. JONES, of Virginia, then moved the following amendment from the Committee of Ways and Means, to come in after the end of the bill:

"For preventing and suppressing hostilities in Florida, to be expended under the direction of the Secretary of War, conformably to the acts of Congress of the 19th of March, 1836, and the acts therein referred to, viz: for forage, for freight or transportation of military supplies of every description, from the places of purchase to Florida; for the purchase of wagons and harness, of boats and lighters, and other vessels; of horses, mules, and oxen, to keep up the trains; of tools, leather, and other materials for repairs; for transportation within Florida, including the line of steamboats and other vessels for service in the rivers, and on the coasts, and the expenses of maintaining the several steamboats and transport schooners connected with the operations of the army; for hire of mechanics, mule drivers, teamsters, and other assistants, including their subsistence; for miscellaneous and contingent charges, and for arrearages in 1840, one million sixty-one thousand eight hundred and sixteen dollars."

Mr. EVANS moved to strike out the sum in the amendment, and to insert \$1,666,906 80.

Mr. JONES made some remarks in explanation, after which

Mr. MASON gave his views.

The hour of two and a half o'clock having arrived, the House took its usual recess.

## IN SENATE.

MONDAY, March 1.

*Relations with Great Britain.*

Mr. BUCHANAN said he was instructed by the Committee on Foreign Relations to move to be discharged from the consideration of the resolution which had been referred to that committee, "requesting the President to communicate to the Senate, if not incompatible with the public interest, any correspondence which may have taken place between this Government and that of Great Britain, relative to the North-eastern boundary, not heretofore communicated to the Senate."

He would state, with as much brevity as possible, the reasons which had induced the committee to believe that it would be inexpedient, at the present moment, to publish the correspondence to which the resolution referred.



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*Fortifications of the United States for the year 1841.*

[26TH CONG.]

It would be recollected by Senators who had directed their attention to this subject, that in consequence of the correspondence already published between the two Governments, and to which he need not particularly refer, it became the duty of Great Britain to submit to our Government the project of a convention for the settlement of this long-disputed boundary question. This duty had been performed by the British Government in the month of May, 1839. The President did not approve of this proposed convention, chiefly because it contained no ultimate provision which must inevitably and finally determine the controversy between the two countries. Indeed, from its character, it was quite probable that, had it been adopted, it would not have produced this result so much to be desired. And the President was firmly convinced, considering the long delay—the high state of mutual irritation existing along the border, and the imminent danger of actual collision, that the interests of both parties imperatively demanded the adoption of such treaty stipulations as must necessarily make an end of the question. The British Government had since unequivocally coincided with the President in these sentiments, and the two Governments had already agreed upon the essential points of a convention based upon these principles, and alike advantageous and honorable to both. There were still some provisions of this convention, of comparative minor importance, and involving detail rather than principle, which had not yet been agreed upon; but if it were the sincere desire of both parties, as he believed it was, to arrive at an amicable conclusion, the negotiation must soon be successfully terminated. Under these peculiar circumstances, the committee believed that it could do no good to either party, whilst it might be embarrassing to both Governments, to publish to the world the correspondence and the different projects and counter projects of treaties which had passed between them.

Mr. CLAY, of Kentucky, said, the most important point related to the adjustment of the North-eastern boundary, and in order to produce a definite settlement of that question, there had been proposals made for its reference to arbitration, as had been stated by the chairman, and the principles which should regulate a matter of that nature had been agreed to, with the exception of some comparatively unimportant point. He would add further, that in reference to the state of the relations between this country and Great Britain, he had not begun to think of the possibility of any immediate war with Great Britain. But while he said this, he hoped he would not be understood as saying that he hoped to avoid any preparation which might be necessary in the event of the assertion of our rights, or any pretensions, whatever quarter they might come from abroad. No; he looked upon the condition of our navy and the want of steam batteries,

and the absence of all those floating means of defence, as matters of just and deep concernment; and he did hope they would have a very early and constant attention, that the country might be prepared for any possible emergency. He would close by repeating the expression of his hope, that there would be no immediate cause of war; and he believed both Governments were animated by a desire to preserve peace, which was so essential to the happiness of both.

The question was then taken on discharging the committee from the further consideration of the subject, and it was agreed to.

## HOUSE OF REPRESENTATIVES.

MONDAY, March 1.

*Fortifications of the United States for the Year 1841.*

The bill having been read,

Mr. W. C. JOHNSON said he was not opposed to defence by fortification, but it was utterly useless to erect new ones, and then leave them unarmed. Scarce one was at this moment fully equipped with ordnance. If gentlemen would incorporate a provision for arming the forts, Mr. J. would go as far as he that went farthest in supporting such a measure. Here were \$400,000 asked to repair forts already built. He would glance for a moment at the present supply of ordnance in the country. He here went into a statement showing that, for forts already completed, 1,178 cannons were needed, while those under construction would need 2,578; all these were absolutely requisite to render the present bill of the least possible utility. 782 more would be needed for forts building and repairing, and 3,506 for works projected by the Board of Engineers; besides 5,288 to complete the defences of our coast. He made these statements on the authority of the War Department. How many cannon did we now possess? The fact would astonish every man. We had but 80 battering cannon, 42-pounders; 60 in depot, 42-pounders; 38 more under contract. Of other pieces, we had but 144. He then adverted to the improvement in gunnery in the throwing of hollow shot, and the adoption and perfection of this improvement by foreign nations. As to shells and balls, we stood in immediate need of 3,020,941 more than we now possessed. By the use of these hollow shot, fortifications had been in a few hours blown up and destroyed which had defied whole navies for centuries. Mr. J. urged the propriety and necessity of placing our entire coast in a state of defence. He was the last man to desire a state of war; but he held that the best way to avoid collision with England was to be prepared to meet her; and so with all foreign powers. He would urge this necessity even were the peace of the world the most profound; how much more pressing was it under circumstances like the present. It was

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due to the national honor to sustain the Executive in negotiations under our intricate relations with a foreign power.

Mr. PICKENS rose for the purpose of disabusing the minds of the committee in relation to a rumor, which he was astonished to find was in existence, in relation to the case of McLeod. When he came into the hall, to his great astonishment he found that a rumor was in circulation, and had been alluded to in debate, that an angry correspondence had taken place between Mr. Forsyth and Mr. Fox, in relation to the imprisonment of McLeod. It was with pleasure, therefore, he stated that he had received information from the most authentic sources, that there was no foundation for such a rumor. There had been no correspondence calculated in any way to produce any more difficulty than previously existed. It was true that correspondence had taken place, but it was so unimportant as not to be deemed necessary to communicate it to either branch of Congress. He conceived it highly important that this explanation should be received, as he hoped the committee would not legislate under a false impression. No correspondence had taken place which was calculated to vary the position of the parties since the correspondence which had last been presented to the House. These false rumors had been alluded to from several quarters of the House, and were calculated to produce unsound legislation.

Mr. P. then proceeded to say, that he hoped the bill reported by the Committee of Ways and Means would be adopted speedily.

The general system of fortification demanded by gentlemen, required a practical knowledge before all its bearings could be known; and he would take occasion to say, that when the next Administration came into power, let them propose a general system as a *whole*—a system of defence for all the points of the country; and if it should be a system that his judgment could approve, he would pledge himself that he would not stop to ask what was the miserable amount of revenue that might be derived from a tax on wines or silks, but he would cheerfully vote an amount equal to the whole proceeds of wines and silks imported, if the next Administration should deem it requisite and proper for the defence of the country by any new contingency.

Mr. P. went on to contend that no system of land fortification could possibly answer, unless it should be connected at various points with the navy. It would be utterly impossible to protect our extensive coast, unless a proper connection was had with a naval force. Take central and leading points, which can protect and sustain your naval defences, suited to our extensive coast of 2,000 miles. It is steam batteries and steamships that can give you defence suited to the improvements of the age.

Mr. P. contended that our present system of fortifications was utterly unsuitable for the present wants of the country. The system had been partially brought from France in 1816,

and, since the introduction of steam power, was to a great extent inapplicable to our extensive territory and sparse population.

In answer to a question from Mr. MONROE, as to what was the system brought from France,

Mr. PICKENS explained its nature, and said it was principally carried through by General Bernard, distinguished in France and in this country; and again urged that it was a system, now, since the introduction of steam power, as totally inapplicable for the defence of a country with such an extensive coast as ours. Mr. P. then said how he would connect the land fortifications with the naval force. He would, he said, establish points at the following places, where the forts could co-operate with the navy; he would take a central point between the St. Croix and Cape Cod; and then New York and the mouth of the Chesapeake between Cape Cod and Cape Hatteras; and then between Cape Hatteras and Cape Florida, he would fortify Charleston and the mouth of the Savannah River; and then between Cape Florida and the Sabine he would fortify Pensacola and the mouths of the Mississippi; he would have all these points well fortified, to protect and sustain an efficient system of naval defences suited to your extensive sea-coast and commerce. As to the interior points of fortification, and those of smaller grade, he would discard them—he looked upon them as behind the age.

But, said Mr. P., any other system of fortification confined exclusively to land, will prove a miserable failure.

In answer to another interrogatory, Mr. P. observed that it would be folly to think that England would ever think of invading us again from the Canadas. England could have no object in attempting a permanent invasion on that frontier. The case now, and at the last war in 1812, was widely different. In 1812 that portion of the country on the lake frontier was thinly populated, and had but little connection with the Atlantic cities. Owing to its defenceless position, the consequence was that the British formed their plan of invasion of the lake coast, with a view to connect a military cordon through the interior to New Orleans, and cut off the Valley of the Mississippi from the Atlantic States. They had some prospects of succeeding at that period—hence the invasion was there. But now the case was widely different. That part of the country was now densely populated, and with a population, too, decidedly warlike, and spirited to the highest degree, so that now it would be madness on the part of Great Britain to attempt an invasion in that quarter. She could gain nothing by it; but the danger would be the reverse, and the invasion would be from this country upon Canada, if a rupture should take place, which he trusted would not occur; and he believed it would not. What I mean to say, continued Mr. P., is, let the next Administration, when it comes into power, propose a proper system of

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*Retiring of the Vice President.*

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fortification—a system embracing the improvements of the age, and calculated to meet the wants of the country—and I will go with them to the utmost. I will not only go for a tax on wines and silks, but I will most cordially, when the proper time shall arrive, give them my support, if any serious difficulty should arise to call for it. I will, then, at a proper time, vote for all they may want. But I hold that this is not the proper time, and I protest against this system of legislating by piecemeal, and without proper information, and unconnected with a system as a whole, suited to the wants of the country. If any serious difficulty should arise between us and a foreign power, (which he hoped would not be the case,) let the Administration call Congress together, and we will meet the issues as a free people ought. Let those who are to execute laws, and conduct negotiations in the future, take that course that patriotism may dictate, and there can be no difficulty.

Mr. VANDERPOEL opposed the idea of laying aside the regular bill from the committee, under the sanction of the Departments, and taking up another from a different committee, proposing larger, much larger, appropriations for a magnificent system of fortification. He was as much awake to the necessity for defence as any man: but other considerations were to be looked at. Here doctors disagreed: some held that the immense sums we had spent on these forts were thrown away: that, in spite of all the millions appropriated, the country was defenceless, and a single frigate might capture the city of New York! Instead of a new system for forts, his plan was entirely different. Every few days we had a war humbug to authorize the picking of the people's pockets. This very morning he had heard about a most angry correspondence between Mr. Fox and Mr. Forsyth.

His plan was to appropriate only for forts already begun, and then to appoint a commission to report on the point whether these forts were or were not worthy of being relied on.

Mr. THOMPSON replied that this very thing had been done. In May, 1840, a most luminous report had been rendered by some of the ablest military men in this country, or in any other, going to show that the new inventions in gunnery and steam navigation rendered works like those now proposed by the Military Committee more needed than ever. He trusted he should hear no more of these wild and unfounded assertions by men unacquainted with military science.

Mr. VANDERPOEL said he was a man of peace, and professed not to "speak of war in the presence of Hannibal." But he must object to a magnificent bill at a time when gentlemen were proclaiming that the country was exhausted, and on the brink of ruin. Mr. V. here went back to the history of the distribution bill, when gentlemen, instead of applying our surplus to the defence of the country, divided it

among the States. But now, when they saw the country was fainting, and almost dying, gentlemen's patriotism was vivid as the lightning. He was glad, however, to find that the fears of war were disclaimed on every side. Why, then, tax a people ground down by the mal-administration of these dreadful Locos? He protested against it, and washed his hands of it.

Mr. FILLMORE, in the course of his remarks, asked the chairman of the Committee on Foreign Affairs, (Mr. PICKENS,) whether his declaration this morning, that there was no foundation for the rumor about an angry correspondence on the subject of McLeod, was not inconsistent with what the gentleman had told him a few minutes previous.

Mr. PICKENS explained that what he had first said in private conversation to the gentleman, was owing to the rumor prevailing when he (Mr. P.) came into the hall. But subsequently he despatched a messenger for information, and it was on that subsequent information that he had made the public statement to the House.

After inserting additional items of appropriation, the committee rose and reported it to the House, with three small amendments, which were agreed to, and the bill was forthwith passed under the operation of the previous question.

The House then adjourned.

#### IN SENATE.

TUESDAY, MARCH 2.

Mr. WALL presented the credentials of the Hon. JACOB W. MILLER, elected by the Legislature of New Jersey a Senator from that State for six years from the 4th of March next; which were read, and ordered on file.

#### *Retiring of the Vice President.*

The VICE PRESIDENT then rose, and addressed the Senate as follows:

Yesterday I intimated to the Senate that I should, some time during the session of this day, feel it my duty to retire from my seat, for the purpose of giving the Senate an opportunity of selecting a presiding officer, for the convenience of organization on the 4th of March; and I have selected this moment for that purpose, and to separate the official ties which have existed between myself and the members of this body for the last four years. I have much doubted the propriety of making any remarks on this occasion. What I say, therefore, shall be very brief, because the time would not permit, nor would it be proper for me to give utterance to all that my feelings suggest.

In taking my leave of the members of this body, language is inadequate to express the feelings which agitate my bosom. I have been associated with a very great majority of the members of the Senate, not only here during the last four years, but for many years, in the councils of our common country; and it has been my great happiness, during that period, whatever diversity of opinion or sentiment has ex-

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lated between me and my political friends on minor points, or between me and those from whom I differ on points of greater magnitude, to know that my personal relations with them have ever been kind and tender. I was elected to the place I occupy by an equal vote of the Electoral College, and by a majority of the votes of the Senate, after having served my country for the term of thirty-two years—two years in my native State as a member of its Legislature, and thirty years in the Congress of the United States, either as a member of the House of Representatives or as a member of the Senate; and in the discharge of the labors and toils which devolved upon me in this chair—humble as was the attempt to discharge them faithfully—my station has been rendered pleasant and agreeable; and I must not omit to say that whatever momentary agitation or excitement in debate may have interrupted the harmony and quiet and order of the body, I can declare, with truth and with candor, that such has been the generous and magnanimous course of the individual members of the body, and particularly such has been their indulgence towards me, who never studied the rules of order technically, that my station here has been rendered pleasant and agreeable. And if, in the discharge of my official duties, I have ever failed to gain your approbation, or to meet your acquiescence in the course I have pursued, it has always arisen, not from any want of inclination, but from a want of ability on my part to have formed them better. It has been my constant endeavor to act with perfect impartiality towards the members of this body. I viewed each Senator as the representative of a sovereign and independent State, and as entitled to equal consideration from me. The place from which I am about to retire, will be occupied by a distinguished citizen of Virginia, who has been called by the voice of the people to this station; and I should not do justice to myself if I did not say that I retire from it without the least dissatisfaction; for, humble as have been my services to my country, I have been devoted to the great radical and fundamental principle of submission to the voice of the people when constitutionally expressed.

I now return to you, one and all, my grateful acknowledgments for the kindness and friendship which have always been extended towards me, and wish you all well, whatever destiny may attend you. And when I am far distant from you—as time must separate us all even here, not to speak of hereafter—as long as I shall have my recollections to remember the associations which I have had with this body, I shall always be animated by the sentiment of kindness and friendship with which I take my final leave of the Senate.

The VICE PRESIDENT having retired, and the chair being occupied by Mr. HUBBARD,

Mr. MANGUM submitted the following resolution for the consideration of the Senate:

*Resolved, unanimously,* That the thanks of the Senate are due and are hereby tendered to RICHARD M. JOHNSON, the President of the Senate, for the dignity and impartiality with which he has presided over its deliberations.

The resolution having been read by the Secretary,

Mr. MANGUM said: I do not know, sir, that it will be out of place in me to rise in this Senate, on this occasion, to notice the conduct of

our presiding officer, for I have had the honor of a personal acquaintance with that gentleman for many years past; and though it has been my misfortune, during a great portion of that time, to take different views on great political questions, I apprehend that I, in common with the great portion of the body of the people of the United States, can entertain but one sentiment respecting the kindness and excellence of his personal character; for his kindness, his generosity, his magnanimity, have placed him high in the estimation of every good man, without respect to political distinctions. I but give vent to my unaffected feelings of respect on this occasion, yet I should not have arisen and obtruded myself in advance of others, but for the consideration that it would proceed with a better grace from one who has taken different views, but whose private opinion of that distinguished man has never been impaired. I therefore move the unanimous adoption of the resolution.

Mr. OLAY, of Kentucky, said: I rise, sir, with peculiar satisfaction to second the motion of my friend near me. Perhaps that motion should have proceeded from myself, as one of the representatives of the State from which that gentleman comes. I should most undoubtedly have made such a motion, if it had not been made by the Senator from North Carolina; but I am happy that my friend has thought proper to offer this resolution. Sir, without meaning to refer at all to those great questions of national policy on which it is my misfortune to differ from the VICE PRESIDENT, who has just retired from the chair, I bear willing testimony to his worth. He possesses that which I consider as one of the best qualities of our nature—an excellence of heart, and a kindness of disposition and of feeling towards all our common race. And in relation to the station he has filled, I can bear, as I do, with equal pleasure, this further testimony, that, on all occasions, he has evinced a perfect impartiality; and I have been able to judge, in the discharge of his duties, a quality amongst the first, if not the very first, to be possessed by the presiding officer of any deliberative body. Sir, he has been distinguished, both in the field and the cabinet of his country; and wherever he has been known, he has been esteemed and beloved for his patriotism, for his worth, and for his kindness of heart; and I hope, in the retirement which he is about to enter, he may continue to enjoy that felicity which should be ever felt and experienced by those who, whatever may have been their errors of judgment—and errors of judgment all must have made, more or less—have the consciousness of having discharged, according to their best judgment, their duty to their country.

The resolution was then unanimously agreed to.

The Senate then went into the consideration of Executive business,

And at about 12 o'clock adjourned.

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Communications from the Speaker.

[26TH CONG.]

WEDNESDAY, March 3.

*Election of President of the Senate, pro tem.*

The Senate was called to order by the Secretary, and proceeded to ballot for a President *pro tempore*, and the votes being counted, the following was declared to be the result:

Whole number of votes . . . . .	30
Mr. KING received . . . . .	16
Mr. SOUTHARD . . . . .	9
Scattering . . . . .	5

Mr. KING, having received a majority of the whole number of votes, was declared to be duly elected; and having been conducted to the chair by Mr. BENTON and Mr. CALHOUN, in a short and pertinent address, expressed his grateful sense of the manifestation of the kindness and confidence of his brother Senators. It had been his fortune to preside over that body, as President *pro tempore*, for several years: how he had discharged the duties of that station was known to every Senator present. He had ever attempted to discharge those duties with faithfulness and with the utmost impartiality. During the short period that remained of the present session, he hoped to continue to give evidence to the body of the same desire to discharge faithfully the duties of the station to which they had called him.

He must be permitted to say, that he had witnessed on several occasions at the close of the sessions of Congress, a degree of excitement which did not, in his opinion, comport with the grave duties of the Senate, and which was calculated to impair the weight of their deliberations, and was not calculated to facilitate the despatch of their business. He trusted that spirit would be banished for the residue of the session, and that they should be actuated by that spirit of kindness and courtesy, and of self as well as personal respect, which ought to characterize the deliberations of that body, consisting of the representatives of great, of sovereign, and of independent States. But if, unfortunately, there should be any departure from strict order, he should feel it his duty to check it instantly; it was an obligation which he felt rested upon him to do so, but at the same time, he should do it in no spirit of unkindness. He trusted, however, he should have no occasion to exercise the power with which they had invested him, and that they should part as they had met, with sentiments of good feeling and kind fellowship.

Mr. WRIGHT said, as there was no business before the Senate, he would submit the following resolution, which was considered and agreed to:

*Ordered*, That the Secretary inform the House of Representatives that the Senate, having finished the legislative business before them, are ready to adjourn.

On motion by Mr. TAPPAN,

*Ordered*, That a joint committee be appointed to

wait on the President of the United States, and notify him that, unless he have other communications to make to the two Houses of Congress, they are ready to adjourn.

Mr. TAPPAN and Mr. WRIGHT were appointed said committee on the part of the Senate.

Mr. TAPPAN then moved that the Senate adjourn.

Previous to putting the question, the President *pro tem.*, in a few brief and pertinent remarks, took leave of the Senate, and the motion being carried in the affirmative,

The Senate adjourned *sine die*.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, March 3.

*Thanks to Speaker Hunter.*

Mr. BRIGGS said he respectfully asked the attention of the House for one moment. He rose to offer the usual tribute of respect to the presiding officer of this House. For that purpose he would send a resolution to the Chair, and he hoped it would receive the cordial and unanimous approbation of every gentleman present.

*Resolved*, That the thanks of this House be presented to the Hon. ROBERT M. T. HUNTER for the able, impartial, and dignified manner in which he has discharged the duties of the Chair during the 26th Congress.

This resolution was read, and, on the question being put thereon, (by Mr. DROMGOOLE, who temporarily occupied the chair,) it was agreed to unanimously.

*Communications from the Speaker.*

The SPEAKER laid before the House sundry communications, viz.,

*Claims on Hayti.*

WASHINGTON, March 2, 1841.

*To the House of Representatives:*

I transmit the accompanying report from the Secretary of State, in relation to the resolution of the House of Representatives of the 12th ult. on the subject of claims of citizens of the United States on the Government of Hayti. The information called for thereby is in the course of preparation, and will be, without doubt, communicated at the commencement of the next session of Congress.

M. VAN BUREN.

The report of the Secretary of State sets forth that it is impracticable to furnish the information called for at the present session of Congress, the papers being numerous, and scattered through a variety of documents.

*Opinions of the Attorney-General.*

WASHINGTON, March 2, 1841.

*To the House of Representatives:*

I transmit to the House of Representatives a report from the Attorney-General, with the accompanying documents, in compliance with the request contained in the resolution of the 23d of March last.

M. VAN BUREN.

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Adjournment.

[MARCH, 1841.]

OFFICE OF THE ATTORNEY-GENERAL,  
March 1, 1841.*To the President of the United States :*

SIR: In compliance with the resolution of the House of Representatives referred to this office, and adopted on the 23d of March, 1840, in the following words:

"Resolved, That the President of the United States be requested to cause to be prepared and communicated to this House at the commencement of the next session, all the opinions of the Attorney-Generals and other officers connected with the Executive, which give construction to the public laws not of a temporary character."

I have the honor to transmit copies of all such opinions of the Attorney-Generals of the United States as I have been able to obtain. Previous to the year 1817 no records of such opinions were prepared. It has, therefore, been necessary to procure them, as far as practicable, from the different Departments and offices to which they were sent; but many which were no doubt given before that period are not now to be found.

I have the honor, &c.

H. D. GILPIN.

*List of Attorney-Generals of the United States.*

Edmund Randolph of Virginia, appointed September 26, 1789.

William Bradford of Pennsylvania, appointed January 27, 1794.

Charles Lee of Virginia, appointed December 10, 1795.

Levi Lincoln of Massachusetts, appointed March 5, 1801.

Robert Smith of Maryland, appointed March 3, 1805.

John Breckenridge of Kentucky, appointed August 7, 1805.

Cesar A. Rodney of Delaware, appointed January 20, 1807.

William Pinkney of Maryland, appointed December 11, 1811.

Richard Rush of Pennsylvania, appointed February 10, 1814.

William Wirt of Virginia, appointed December 16, 1817.

John M. Berrien of Georgia, appointed March 9, 1829.

Roger B. Taney of Maryland, appointed July 20, 1831.

Benjamin F. Butler of New York, appointed November 15, 1833.

Felix Grundy of Tennessee, appointed September 1, 1838.

Henry D. Gilpin of Pennsylvania, appointed January 11, 1840.

*British Seizures and Searches and Slave-Trade.*

WASHINGTON, March 8, 1841.

*To the House of Representatives :*

I transmit to the House of Representatives, in compliance with their resolution of the 30th January last, a report from the Secretary of State, with accompanying documents. M. VAN BUREN.

The report of the Secretary of State merely communicates copies of papers called for by the House, in relation to recent seizures or searches of any of our vessels upon the coast of

Africa or elsewhere by the British cruisers or authorities, and the cause of the same, and the authority under which made; and of correspondence between the Governments of the United States and Great Britain relating to the African slave-trade since the 8d March, 1837; as well as of communications from N. P. Trist, Consul of the United States at Havana, relating to the African slave-trade.

*Adjournment.*

Mr. VANDERPOEL, from the joint committee appointed to wait on the President, and inform him that, unless he may have further communication to make to Congress, the two Houses are about to close the present session by an adjournment, reported that the committee had discharged the duties imposed upon them; that the President answered that he had no further communication to make; and that he wished the members a safe return to their homes and families.

And then, at twelve o'clock at night, a motion was made that the House adjourn.

And the question being put, it passed in the affirmative.

A motion to adjourn having been made, the Hon. R. M. T. HUNTER, Speaker, rose and addressed the House as follows:

GENTLEMEN: It is with the deepest sensibility that I rise to return you my grateful acknowledgments for all your kindness, ere I perform the last official act which is to separate so many of us, perhaps forever. If it is no light thing, under any circumstances, to break up long-standing associations; how much graver must be the emotions with which we part from those who met us in confidence, and take leave of us in kindness?

A consciousness of my own deficiencies forces me to attribute much of the high compliment which you have offered me, to that courtesy which relieves and softens our intercourse in the various relations of social and official life. But may I not, at the same time, ascribe it, in part, to your sense of the motives by which I have been governed in the discharge of the duties of my office? If I have not done all that an able man would have effected, in my station, still, it is to be remembered that no other has ever been called to this place so unexpectedly, and under so many circumstances of difficulty and embarrassment. In a nicely balanced state of parties, and amid scenes of great political excitement, I was selected to execute your highest and most delicate trust, without previous preparation or experience, and with no party to sustain me, other than those friends whom I might make, by endeavoring to discharge my duties justly and impartially. I foresaw many of the difficulties to which I should be exposed, and if I had consulted my own ease, I perhaps should not have accepted the office, with my view of its duties, and under the circumstances to which I have alluded. But higher considerations, I trust, determined me to undertake the arduous task, and to make you the best return in my power for the confidence with which you had honored me. In the excited and feverish state of mind which then existed, not only here, but in the country at large, I believed that a Speaker who would manifest a desire to deal justly

upon all occasions, could be more useful than one of far greater abilities, who would hold this Chair with no higher aim than that of leading his party to victory, and of dealing by the vanquished with only such generosity as the conqueror may bestow upon the conquered. This view of the services which a Speaker, in the opinion of too many, may legitimately render to his friends, would soon pervert party organizations from the noble pursuits of truth and justice into a mere contest for power and office, and, under milder forms, infuse the spirit of civil war into the divisions of this House and the nation. He who administers this office for himself or his party, may do much for both; but he who seeks the common good, must administer it for the country, and deal justly by all. In pursuing this latter course, in times of high party excitement, he will doubtless expose his motives to misconstruction, and himself to censure; but there is at least a satisfaction in the consciousness of rectitude, higher than public praise, and beyond the reach even of public censure. I knew, when I took the office, that I should not be able to execute its duties entirely according to my conception of their nature, but I believed that the mere effort to do so might serve as a useful example hereafter.

To administer the rules fairly, is, comparatively, an easy task; but there is great difficulty in organizing the committees of the House so as to do justice to all parties. As much in deliberation depends upon the statement of the proposition to be discussed, so the efficiency of this body depends greatly upon the constitution of the committees which present most of the subjects upon which it acts. It is, therefore, important to the parties and the country, that the power of proposing through these committees should be fairly and rightly bestowed. To ascertain what is fair in the dispensation of this power, is the most difficult duty, as it should be the most anxious care of a Speaker. To say that I had developed the general principles of a just organization, would be a claim far more than I deserve. But, that such principles may be established by a reference to the position of parties, and the nature of the questions to be considered, I do not doubt. The party upon which it naturally devolves to propose a question, ought to have the power, it would seem, to present its proposition in the shape for which it is willing to be responsible. And as the different parties hold the affirmative, according to the nature of the question, so ought the constitution of the committees to be varied. In the committees connected with the Executive Departments, it would seem just that the friends of the existing Administration should have the majority to propose the measures which emanate originally from their party, and for which they are mainly accountable. In committees of investigation, it is equally clear that the opposition, who hold the affirmative, should have the majority and the power. And so, upon other questions, a reference to their nature, and to the views of the various sections of our Confederacy, will generally enable a Speaker to approximate to just rules, in constituting the committees which take charge of these measures. But, in all cases, I have endeavored to guard the minority upon the committees in the point of numbers and ability.

That I have sometimes failed in my most earnest attempts to do justice, I freely confess; but it is something if I can hope that I have, at least, made it easier for those who succeed me, to act upon some better principle than that of giving the whole power of the House to one of the parties, without regard to

the rights and feelings of others. Clothe this station with the authority of justice, and how much may it not do to elevate the views of parties from themselves to their country! But arm it with the mere power of numbers, and administer it with an exclusive eye to the interests of a part, and it may become the engine of as much fraud and oppression as can be practised in a country so free as ours.

I ought, perhaps, to apologize to you for the brief allusion I have made to the principles which have governed me, but it is the last time I shall ever claim your indulgence, and I owed it to myself and to you to make the explanation. If I have done wrong, I alone am responsible for it; and if I have earnestly sought to act justly and impartially, I seek no higher reward than the kind expression of your satisfaction which you have just been pleased to offer me.

I am soon to pass away from the station with which you have honored me, and I part from it without regret. Its trappings all may see, but its anxieties and trials must be endured to be understood.

It is not, however, so easy a thing to sever, even for a season, the kindly ties of friendship; and it is painful to reflect upon the thousand accidents of life which may prevent many, very many, of us from ever meeting again.

But, although the traces of individual action are soon lost in the rapid current of events, it is still cheering to think that we have contributed to those great but silent results of a well-ordered Government which daily send their blessings throughout the land. Still prouder is the hope that, with or without us, our country is on the march to fulfil its mighty destiny, and accomplish the high mission of reform upon which we fondly believe it is sent.

Permit me, ere I conclude, to renew my grateful acknowledgments to you for the honor you have bestowed upon me, and the kind consideration which you have shown me, upon so many occasions. May each and all of you return in safety to your homes, to enjoy in domestic life a grateful repose from your labors, and to receive, in the gratulations of confiding constituents, the highest reward with which a representative can be honored.

And now, when we are about to close the busy scene of our labors, and all sense of difference or division is for the moment lost in the emotions of the parting hour, may I not hope that we shall separate to remember only what was pleasant and friendly in our past intercourse, and to forget all that was painful or disagreeable?

May every blessing attend you, gentlemen, in your progress through life, and may you continue to awaken in the breasts of others the same kindly emotions of friendship and respect with which I now take leave of you, as I perform my last official duty, and pronounce this House to be adjourned without day.

The House adjourned *sine die*.\*

\* *Expenses of the Government.*—The appropriations for all objects made at this session were \$23,191,000; but that sum included many objects not coming within the range of support to the Government, or to be included within its expenses. Among these the Florida war, one million of dollars; pensions, one million; increase of the navy, two millions of dollars; fortifications, half a million; Indian treaties, one million; numerous public buildings, and the General Post Office establishment, appropriated for out of the Treasury since the act of July, 1836. This appropriation

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Extra Session.

[MARCH, 1841.]

## IN SENATE.

THURSDAY, March 4.

*Extra Session.*

At 11 o'clock the Senate was called to order by Mr. DICKENS, its Secretary.

Mr. BAYARD said that it would be recollected that on Tuesday last, the Hon. W. R. KING was elected President *pro tem.*, but the fact that Mr. KING's term of service expired with the close of the last session, was overlooked; and, in order to obviate the difficulty, he would submit the following resolution for the consideration of the Senate:

*Resolved*, That the oath of office be administered to the Hon. WM. R. KING, a Senator elect from the State of Alabama, by the Hon. HENRY CLAY, and that he be, and is hereby, chosen President *pro tem.* of the Senate.

The resolution was unanimously agreed to; and Mr. KING, having been qualified, took his seat as President *pro tem.* of the Senate.

Mr. MOUTON presented the credentials of the Hon. ALEXANDER BARROW, elected by the Legislature of Louisiana a Senator from that State for six years from the 4th of March, instant.

Mr. SEVIER presented the credentials of the Hon. JOHN O. CALHOUN, elected by the Legislature of South Carolina a Senator from that State for six years from the 4th of March, instant.

Mr. PIERCE presented the credentials of the Hon. LEVI WOODBURY, elected by the Legislature of New Hampshire a Senator from that State for six years from the 4th of March, instant.

Mr. MANGUM presented the credentials of the Hon. JOHN MACPHERSON BERRIEN, elected by the Legislature of Georgia a Senator from that State for six years from the 4th of March, instant.

The credentials were severally read, and ordered to be placed on file.

The Diplomatic corps, and the Judges of the Supreme Court of the United States, entered the Senate chamber, and took the seats assigned for them in front of the Secretary's table.

The Hon. JOHN TYLER, Vice President elect, and the Hon. R. M. JOHNSON, ex-Vice President, then entered the chamber with the Committee of Arrangements.

The oath of office having been administered by Mr. KING, the President *pro tem.*,

The VICE PRESIDENT addressed the Senate as follows:

SENATORS: Called by the people of the United States to preside over your deliberations, I cannot

went into the civil and diplomatic bill, and more than doubled its amount. That bill proper was \$3,680,000; the Post Office appropriation included, made it \$8,517,000. Deduct all these items, amounting in the aggregate to near ten millions, and there will be left expended for the support of the Government, and constituting its expenses, about thirteen millions of dollars

withhold the expression of the high estimate which I place on the honor which they have conferred upon me. To occupy the seat which has been filled and adorned (to say nothing of my more immediate predecessors) by an Adams, a Jefferson, a Gerry, a Clinton, and a Tompkins—names that, although belonging to the dead, still live in the recollection of a grateful country—is an honor of which any man would have just cause to be proud. But this honor is greatly augmented by the consideration of the true character of this body—by the high order of intellectual and moral powers which has distinguished it in all past time, and which still distinguish it—by the dignity which has for the most part marked its proceedings; and, above all, by the important duties which have devolved upon it under the constitution. Here are to be found the immediate representatives of the States, by whose sovereign will the Government has been spoken into existence. Here exists that perfect equality among the members of the Confederacy, which gives to the smallest State in the Union a voice as potential as that of the largest. To this body is committed, in an eminent degree, the great trust of guarding and protecting the institutions handed down to us from our fathers, as well against the waves of popular and rash impulses on the one hand, as against attempts at Executive encroachment on the other. It may properly be regarded as holding the balance, in which is weighed the powers conceded to this Government and the rights reserved to the States and to the people. It is its province to concede what has been granted, to withhold what has been denied: thus, in all its features exhibiting a true type of the glorious Confederacy under which it is our happiness to live. Should the spirit of faction—that destructive spirit which recklessly walks over prostrate rights and tramples laws and constitutions in the dust—ever find an abiding place within this hall, then indeed will a sentence of condemnation be issued against the peace and happiness of this people, and their political institutions be made to topple to their foundations. But while this body shall continue to be what by its framers it was designed to be—deliberative in its character, unbiassed in its course, and independent in its action—then may liberty be regarded as entrenched in safety behind the sacred ramparts of the constitution.

While I occupy this chair, Senators, I shall have frequent occasion to invoke your indulgence for my defects, and your charity for my errors. I am but little skilled in parliamentary law, and have been unused to preside over deliberative assemblies. All that I can urge in excuse for my defects is, that I bring with me to this chair an earnest wish to discharge properly its duties, and a fixed determination to preside over your deliberations with entire impartiality.

Mr. CLAY, of Kentucky, presented the credentials of the Hon. JAMES P. MOOREHEAD, elected by the Legislature of Kentucky a Senator from that State for six years from the 4th of March, instant, which were read.

Mr. MOOREHEAD was then qualified, and took his seat in the Senate.

On motion of Mr. KING, the names of the Senators whose credentials have been heretofore read, were called over for the purpose of being qualified, and Mr. BATES of Massachusetts, Mr. CLAYTON of Delaware, Mr. FULTON



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of Arkansas, Mr. BERRIEN of Georgia, Mr. MANGUM of North Carolina, Mr. MACROBERTS of Illinois, Mr. SIMMONS of Rhode Island, Mr. WOODBURY of New Hampshire, Mr. BARROW of Louisiana, Mr. CALHOUN of South Carolina, Mr. WALKER of Mississippi, Mr. MILLER of New Jersey, Mr. EVANS of Maine, and Mr. WOODBRIDGE of Michigan, severally took the oath prescribed by the Constitution of the United States.

General WILLIAM HENRY HARRISON, President of the United States elect, then entered the Senate chamber with the Committee of Arrangements, and was conducted to the seat assigned for him, immediately in front of the Secretary's table.

At twelve o'clock, those assembled on the floor of the Senate proceeded to the eastern portico of the Capitol, in the following order:

The Marshal of the District of Columbia;

The Supreme Court of the United States;

The Sergeant-at-Arms of the Senate;

The Committee of Arrangements;

The President elect, the Vice President, and Secretary of the Senate;

The Members of the Senate;

The Diplomatic corps;

The Mayors of Washington, Georgetown, and Alexandria, and the other persons admitted to the floor of the Senate.

On reaching the portico, the President elect and Chief Justice Taney were conducted to seats in front of a large platform erected for the purpose, and those who followed in the procession having taken their seats, the President elect rose and delivered the following

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Called from a retirement which I had supposed was to continue for the residue of my life, to fill the Chief Executive office of this great and free nation, I appear before you, fellow-citizens, to take the oaths which the constitution prescribes, as a necessary qualification for the performance of its duties. And in obedience to a custom coeval with our Government, and what I believe to be your expectations, I proceed to present to you a summary of the principles which will govern me, in the discharge of the duties which I shall be called upon to perform.

It was the remark of a Roman Consul, in an early period of that celebrated Republic, that a most striking contrast was observable in the conduct of candidates for offices of power and trust, before and after obtaining them—they seldom carrying out in the latter case the pledges and promises made in the former. However much the world may have improved, in many respects, in the lapse of upwards of two thousand years since the remark was made by the virtuous and indignant Roman, I fear that a strict examination of the annals of some of the modern elective Governments would develop similar instances of violated confidence.

Although the fiat of the people has gone forth, proclaiming me the Chief Magistrate of this glorious Union, nothing upon their part remaining to be done, it may be thought that a motive may exist to keep up the delusion under which they may be supposed to have acted in relation to my principles and

opinions, and perhaps there may be some in this assembly who have come here either prepared to condemn those I shall now deliver, or, approving them, to doubt the sincerity with which they are uttered. But the lapse of a few months will confirm or dispel their fears. The outline of principles to govern, and measures to be adopted, by an Administration not yet begun, will soon be exchanged for immutable history; and I shall stand, either exonerated by my countrymen, or classed with the mass of those who promised that they might deceive, and flattered with the intention to betray.

However strong may be my present purpose to realize the expectations of a magnanimous and confiding people, I too well understand the infirmities of human nature, and the dangerous temptations to which I shall be exposed, from the magnitude of the power which it has been the pleasure of the people to commit to my hands, not to place my chief confidence upon the aid of that Almighty Power which has hitherto protected me, and enabled me to bring to favorable issues other important, but still greatly inferior trusts, heretofore confided to me by my country.

The broad foundation upon which our constitutions rest, being the people—a breath of theirs having made, as a breath can unmake, change, or modify it—it can be assigned to none of the great divisions of Government but to that of Democracy. If such is its theory, those who are called upon to administer it must recognize, as its leading principle, the duty of shaping their measures so as to produce the greatest good to the greatest number. But, with these broad admissions, if we would compare the sovereignty acknowledged to exist in the mass of our people with the power claimed by other sovereignties, even by those which have been considered most purely Democratic, we shall find a most essential difference. All others lay claim to power limited only by their own will. The majority of our citizens, on the contrary, possess a sovereignty with an amount of power precisely equal to that which has been granted to them by the parties to the national compact, and nothing beyond. We admit of no Government by Divine right—believing that, so far as power is concerned, the beneficent Creator has made no distinction amongst men, that all are upon an equality, and that the only legitimate right to govern is an express grant of power from the governed. The Constitution of the United States is the instrument containing this grant of power to the several departments composing the Government. On an examination of that instrument, it will be found to contain declarations of power granted, and of power withheld. The latter is also susceptible of division, into power which the majority had the right to grant, but which they did not think proper to intrust to their agents, and that which they could not have granted, not being possessed by themselves. In other words, there are certain rights possessed by each individual American citizen, which, in his compact with the others, he has never surrendered. Some of them, indeed, he is unable to surrender, being, in the language of our system, unalienable.

The boasted privilege of a Roman citizen was to him a shield only against a petty provincial ruler, whilst the proud democrat of Athens could console himself under a sentence of death, for a supposed violation of the national faith, which no one understood, and which at times was the subject of the mockery of all, or of banishment from his home, his

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family, and his country, with or without an alleged cause; that it was the act, not of a single tyrant, or hated aristocracy, but of his assembled countrymen. Far different is the power of our sovereignty. It can interfere with no one's faith, prescribe forms of worship for no one's observance, inflict no punishment but after well-ascertained guilt, the result of investigation under rules prescribed by the constitution itself. These precious privileges, and those scarcely less important, of giving expression to his thoughts and opinions, either by writing or speaking, unrestrained but by the liability for injury to others, and that of a full participation in all the advantages which flow from the Government, the acknowledged property of all, the American citizen derives from no charter granted by his fellow man. He claims them because he is himself a man, fashioned by the same Almighty hand as the rest of his species, and entitled to a full share of the blessings with which he has endowed them.

Notwithstanding the limited sovereignty possessed by the people of the United States, and the restricted grant of power to the Government which they have adopted, enough has been given to accomplish all the objects for which it was created. It has been found powerful in war, and hitherto justice has been administered, an intimate union effected, domestic tranquillity preserved, and personal liberty secured to the citizen. As was to be expected, however, from the defect of language, and the necessarily sententious manner in which the constitution is written, disputes have arisen as to the amount of power which it has actually granted, or was intended to grant. This is more particularly the case in relation to that part of the instrument which treats of the legislative branch. And not only as regards the exercise of powers claimed under a general clause, giving that body the authority to pass all laws necessary to carry into effect the specified powers, but in relation to the latter also. It is, however, consolatory to reflect, that most of the instances of alleged departure from the letter or spirit of the constitution, have ultimately received the sanction of a majority of the people. And the fact, that many of our statesmen, most distinguished for talents and patriotism, have been, at one time or other of their political career, on both sides of each of the most warmly disputed questions, forces upon us the inference that the errors, if errors there were, are attributable to the intrinsic difficulty, in many instances, of ascertaining the intentions of the framers of the constitution, rather than the influence of any sinister or unpatriotic motive.

But the great danger to our institutions does not appear to me to be in a usurpation, by the Government, of power not granted by the people, but by the accumulation, in one of the departments, of that which was assigned to others. Limited as are the powers which have been granted, still enough has been granted to constitute a despotism, if concentrated in one of the departments. This danger is greatly heightened, as it has been always observable that men are less jealous of encroachments of one department upon another, than upon their own reserved rights.

When the Constitution of the United States first came from the hands of the convention which formed it, many of the sternest republicans of the day were alarmed at the extent of the power which had been granted to the Federal Government, and more particularly of that portion which had been assigned to the Executive branch. There were in it features

which appeared not to be in harmony with their ideas of a simple representative Democracy, or Republic. And knowing the tendency of power to increase itself, particularly when exercised by a single individual, predictions were made that, at no very remote period, the Government would terminate in virtual monarchy. It would not become me to say that the fears of these patriots have been already realized. But, as I sincerely believe that the tendency of measures, and of men's opinions, for some years past, has been in that direction, it is, I conceive, strictly proper that I should take this occasion to repeat the assurances I have heretofore given of my determination to arrest the progress of that tendency, if it really exist, and restore the Government to its pristine health and vigor, as far as this can be effected by any legitimate exercise of the power placed in my hands.

I proceed to state, in as summary a manner as I can, my opinion of the sources of the evils which have been so extensively complained of, and the correctives which may be applied. Some of the former are unquestionably to be found in the defects of the constitution; others, in my judgment, are attributable to a misconstruction of some of its provisions. Of the former is the eligibility of the same individual to a second term of the Presidency. The sagacious mind of Mr. Jefferson early saw and lamented this error, and attempts have been made, hitherto without success, to apply the amendatory power of the States to its correction.

As, however, one mode of correction is in the power of every President, and consequently in mine, it would be useless, and perhaps invidious, to enumerate the evils of which, in the opinion of our fellow-citizens, this error of the sages who framed the constitution may have been the source, and the bitter fruits which we are still to gather from it, if it continues to disfigure our system. It may be observed, however, as a general remark, that Republics can commit no greater error than to adopt or continue any feature in their systems of Government which may be calculated to create or increase the love of power, in the bosoms of those to whom necessity obliges them to commit the management of their affairs. And, surely, nothing is more likely to produce such a state of mind than the long-continuance of an office of high trust. Nothing can be more corrupting, nothing more destructive of all those noble feelings which belong to the character of a devoted republican patriot. When this corrupting passion once takes possession of the human mind, like the love of gold, it becomes insatiable. It is the never-dying worm in its bosom, grows with his growth, and strengthens with the declining years of its victim. If this is true, it is the part of wisdom for a republic to limit the service of that officer, at least, to whom she has intrusted the management of her foreign relations, the execution of her laws, and the command of her armies and navies, to a period so short as to prevent his forgetting that he is the accountable agent, not the principal—the servant, not the master. Until an amendment of the constitution can be effected, public opinion may secure the desired object. I give my aid to it, by renewing the pledge heretofore given, that, under no circumstances, will I consent to serve a second term.

But if there is danger to public liberty from the acknowledged defects of the constitution, in the want of limit to the continuance of the Executive power in the same hands, there is, I apprehend, not much

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less from a misconception of that instrument, as it regards the powers actually given. I cannot conceive that, by a fair construction, any or either of its provisions would be found to constitute the President a part of the legislative power. It cannot be claimed from the power to recommend, since, although enjoined as a duty upon him, it is a privilege which he holds in common with every other citizen. And although there may be something more of confidence in the propriety of the measures recommended in the one case than in the other, in the obligations of ultimate decision there can be no difference. In the language of the constitution "all the legislative powers" which it grants "are vested in a Congress of the United States." It would be a solecism in language to say that any portion of these is not included in the whole.

It may be said, indeed, that the constitution has given to the Executive the power to annul the acts of the legislative body, by refusing to them his assent. So a similar power has necessarily resulted from that instrument to the Judiciary; and yet the Judiciary forms no part of the Legislature. There is, it is true, this difference between these grants of power. The Executive can put his negative upon the acts of the Legislature for other cause than that of want of conformity to the constitution, whilst the Judiciary can only declare void those which violate that instrument. But the decision of the Judiciary is final in such a case, whereas, in every instance where the veto of the Executive is applied, it may be overcome by a vote of two-thirds of both Houses of Congress. The negative upon the acts of the Legislature by the Executive authority, and that in the hands of one individual, would seem to be an incongruity in our system. Like some others of a similar character, however, it appears to be highly expedient; and if used only with the forbearance, and in the spirit which was intended by its authors, it may be productive of great good, and be found one of the best safeguards to the Union. At the period of the formation of the constitution, this principle does not appear to have enjoyed much favor in the State Governments. It existed but in two; and in one of these there was a plural Executive. If we would search for the motives which operated upon the purely patriotic and enlightened assembly which framed the constitution, for the adoption of a provision so apparently repugnant to the leading Democratic principle that the majority should govern, we must reject the idea that they anticipated from it any benefit to the ordinary course of legislation. They knew too well the high degree of intelligence which existed among the people, and the enlightened character of the State Legislatures, not to have the fullest confidence that the two bodies elected by them would be worthy representatives of such constituents, and, of course, that they would require no aid in conceiving and maturing the measures which the circumstances of the country might require; and it is preposterous to suppose that a thought could for a moment have been entertained that the President, placed at the capital, in the centre of the country, could better understand the wants and wishes of the people than their own immediate representatives, who spent a part of every year among them, living with them, often laboring with them, and bound to them by the triple tie of interest, duty, and affection. To assist or control Congress, then, in its ordinary legislation, could not, I conceive, have been the motive for conferring the veto power on the President. This argu-

ment acquires additional force from the fact of its never having been thus used by the first six Presidents; and two of them were members of the convention, one presiding over its deliberations, and the other having a larger share in consummating the labors of that august body than any other person. But if bills were never returned to Congress by either of the Presidents above referred to, upon the ground of their being inexpedient, or not as well adapted as they might be to the wants of the people, the veto was applied upon that of want of conformity to the constitution, or because errors had been committed from a too hasty enactment.

There is another ground for the adoption of the veto principle, which had probably more influence in recommending it to the convention than any other. I refer to the security which it gives to the just and equitable action of the legislature upon all parts of the Union. It could not but have occurred to the convention that, in a country so extensive, embracing so great a variety of soil and climate, and, consequently, of products, and which, from the same causes, must ever exhibit a great difference in the amount of the population of its various sections, calling for a great diversity in the employments of the people, that the legislation of the majority might not always justly regard the rights and interests of the minority—and that acts of this character might be passed, under an express grant by the words of the constitution, and, therefore, not within the competency of the judiciary to declare void; that, however enlightened and patriotic they might suppose, from past experience, the members of Congress might be, and however largely partaking in the general of the liberal feelings of the people, it was impossible to expect that bodies so constituted should not sometimes be controlled by local interests and sectional feelings. It was proper, therefore, to provide some umpire, from whose situation and mode of appointment more independence and freedom from such influences might be expected. Such a one was afforded by the Executive Department, constituted by the constitution. A person elected to that high office, having his constituents in every section, State, and subdivision of the Union, must consider himself bound by the most solemn sanctions to guard, protect, and defend the rights of all, and of every portion, great or small, from the injustice and oppression of the rest. I consider the veto power, therefore, given by the constitution to the Executive of the United States, solely as a conservative power, to be used only, 1st, to protect the constitution from violation; 2dly, the people from the effects of hasty legislation, where their will has been probably disregarded or not well understood; and, 3dly, to prevent the effects of combinations violative of the rights of minorities. In reference to the second of these objects, I may observe, that I consider it the right and privilege of the people to decide disputed points of the constitution, arising from the general grant of power to Congress to carry into effect the powers expressly given. And I believe, with Mr. Madison, "that repeated recognitions, under varied circumstances, in acts of the Legislative, Executive, and Judicial branches of the Government, accompanied by indications in different modes of the concurrence of the general will of the nation, as affording to the President sufficient authority for his considering such disputed points as settled."

Upwards of half a century has elapsed since the adoption of our present form of Government. It

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would be an object more highly desirable than the gratification of the curiosity of speculative statesmen, if its precise situation would be ascertained, and a fair exhibit made of the operations of each of its Departments, of the powers which they respectively claim and exercise, of the collisions which have occurred between them, or between the whole Government and those of the States or either of them. We could then compare our actual condition, after fifty years' trial of our system, with what it was in the commencement of its operations, and ascertain whether the predictions of the patriots who opposed its adoption, or the confident hopes of its advocates, have been best realized. The great dread of the former seems to have been, that the reserved powers of the States would be absorbed by those of the Federal Government, and a consolidated power established, leaving to the States the shadow, only, of that independent action for which they had so zealously contended, and on the preservation of which they relied as the last hope of liberty. Without denying that the result to which they looked with so much apprehension is in the way of being realized, it is obvious that they did not clearly see the mode of its accomplishment. The General Government has seized upon none of the reserved rights of the States. As far as any open warfare may have gone, the State authorities have amply maintained their rights. To a casual observer, our system presents no appearance of discord between the different members which compose it. Even the addition of many new ones has produced no jarring. They move in their respective orbits in perfect harmony with the central head, and with each other. But there is still an under current at work, by which, if not seasonably checked, the worst apprehensions of our anti-federal patriots will be realized. And not only will the State authorities be overshadowed by the great increase of power in the Executive Department of the General Government, but the character of that Government, if not its designation, be essentially and radically changed. This state of things has been in part effected by causes inherent in the constitution, and in part by the never-failing tendency of political power to increase itself. By making the President the sole distributor of all the patronage of the Government, the framers of the constitution do not appear to have anticipated at how short a period it would become a formidable instrument to control the free operations of the State Governments. Of trifling importance at first, it had, early in Mr. Jefferson's administration, become so powerful as to create great alarm in the mind of that patriot, from the potent influence it might exert in controlling the freedom of the elective franchise. If such could have then been the effects of its influence, how much greater must be the danger at this time, quadrupled in amount, as it certainly is, and more completely under the control of the Executive will, than their construction of their powers allowed, or the forbearing characters of all the early Presidents permitted them to make? But it is not by the extent of its patronage alone that the Executive Department has become dangerous, but by the use which it appears may be made of the appointing power, to bring under its control the whole revenue of the country. The constitution has declared it to be the duty of the President to see that the laws are executed, and it makes him the Commander-in-Chief of the armies and navy of the United States. If the opinion of the most approved writers upon that species of mixed Government, which, in

modern Europe, is termed *monarchy*, in contradistinction to *despotism*, is correct, there was wanting no other addition to the powers of our Chief Magistrate to stamp a monarchical character on our Government, but the control of the public finances. And to me it appears strange, indeed, that any one should doubt that the entire control which the President possesses over the officers who have the custody of the public money, by the power of removal with or without cause, does, for all mischievous purposes at least, virtually subject the treasure also to his disposal. The first Roman Emperor, in his attempt to seize the sacred treasure, silenced the opposition of the officer to whose charge it had been committed, by a significant allusion to his sword. By a selection of political instruments for the care of the public money, a reference to their commissions by a President, would be quite as effectual an argument as that of Cæsar to the Roman knight. I am not insensible of the great difficulty that exists in devising a proper plan for the safe-keeping and disbursement of the public revenues, and I know the importance which has been attached by men of great abilities and patriotism to the divorce, as it is called, of the Treasury from the banking institutions. It is not the divorce which is complained of, but the unhallowed union of the Treasury with the Executive Department which has created such extensive alarm. To this danger to our Republican institutions, and that created by the influence given to the Executive through the instrumentality of the Federal officers, I propose to apply all the remedies which may be at my command. It was certainly a great error in the framers of the constitution, not to have made the officer at the head of the Treasury Department entirely independent of the Executive. He should at least have been removable only upon the demand of the popular branch of the Legislature. I have determined never to remove a Secretary of the Treasury without communicating all the circumstances attending such removal to both Houses of Congress. The influence of the Executive in controlling the freedom of the elective franchise through the medium of the public officers, can be effectually checked by renewing the prohibition published by Mr. Jefferson, forbidding their interference in elections further than giving their own votes; and their own independence secured by an assurance of perfect immunity, in exercising this sacred privilege of freemen under the dictates of their own unbiased judgments. Never, with my consent, shall an officer of the people, compensated for his services out of their pockets, become the pliant instrument of Executive will.

There is no part of the means placed in the hands of the Executive which might be used with greater effect, for unhallowed purposes, than the control of the public press. The maxim which our ancestors derived from the mother country, that "the freedom of the press is the great bulwark of civil and religious liberty," is one of the most precious legacies which they have left us. We have learned, too, from our own as well as the experience of other countries, that golden shackles, by whomsoever or by whatever pretence imposed, are as fatal to it as the iron bonds of despotism. The presses in the necessary employment of the Government, should never be used "to clear the guilty, or to varnish crimes." A decent and manly examination of the acts of the Government should be not only tolerated but encouraged.

Upon another occasion I have given my opinion, at some length, upon the impropriety of Executive

interference in the legislation of Congress. That the article in the constitution making it the duty of the President to communicate information, and authorizing him to recommend measures, was not intended to make him the source of legislation, and, in particular, that he should never be looked to for schemes of finance. It would be very strange, indeed, that the constitution should have strictly forbidden one branch of the Legislature from interfering in the origination of such bills, and that it should be considered proper that an altogether different department of the Government should be permitted to do so. Some of our best political maxims and opinions have been drawn from our parent Isle. There are others, however, which cannot be introduced in our system without singular incongruity, and the production of much mischief. And this I conceive to be one. No matter in which of the Houses of Parliament a bill may originate, nor by whom introduced, a minister, or a member of the opposition, by the fiction of law, or rather of constitutional principle, the sovereign is supposed to have prepared it agreeably to his will, and then submitted it to Parliament for their advice and consent. Now, the very reverse is the case here, not only with regard to the principle, but the forms prescribed by the constitution. The principle certainly assigns to the only body constituted by the constitution, (the legislative body,) the power to make laws, and the forms even direct that the enactment should be ascribed to them. The Senate, in relation to revenue bills, have the right to propose amendments; and so has the Executive, by the power given him to return them to the House of Representatives, with his objections. It is in his power, also, to propose amendments to the existing revenue laws, suggested by his observations upon their defective or injurious operation. But the delicate duty of devising schemes of revenue should be left where the constitution has placed it—with the immediate representatives of the people. For similar reasons, the mode of keeping the public treasure should be prescribed by them; and the farther removed it may be from the control of the Executive, the more wholesome the arrangement, and the more in accordance with Republican principle.

Connected with this subject is the character of the currency: The idea of making it exclusively metallic, however well intended, appears to me to be fraught with more fatal consequences than any other scheme, having no relation to the personal rights of the citizen, that has ever been devised. If any single scheme could produce the effect of arresting, at once, that mutation of condition by which thousands of our most indigent fellow-citizens, by their industry and enterprise, are raised to the possession of wealth, that is the one. If there is one measure better calculated than another to produce that state of things so much deprecated by all true republicans, by which the rich are daily adding to their hoards, and the poor sinking deeper into penury, it is an exclusive metallic currency. Or if there is a process by which the character of the country for generosity and nobleness of feeling may be destroyed by the great increase and necessary toleration of usury, it is an exclusive metallic currency.

Amongst the other duties of a delicate character which the President is called upon to perform, is the supervision of the Government of the Territories of the United States. Those of them which are destined to become members of our great political family, are compensated by their rapid progress from infancy to

manhood, for the partial and temporary deprivation of their political rights. It is in this District, only, where American citizens are to be found, who, under a settled system of policy, are deprived of many important political privileges, without any inspiring hope as to the future. Their only consolation, under circumstances of such deprivation, is that of the devoted exterior guards of a camp—that their sufferings secure tranquillity and safety within. Are there any of their countrymen who would subject them to greater sacrifices, to any other humiliations than those essentially necessary to the security of the object for which they were thus separated from their fellow-citizens? Are their rights alone not to be guaranteed by the application of those great principles, upon which all our constitutions are founded? We are told by the greatest of British orators and statesmen, that, at the commencement of the war of the Revolution, the most stupid men in England spoke of "their American subjects." Are there, indeed, citizens of any of our States who have dreamed of *their subjects* in the District of Columbia? Such dreams can never be realized by any agency of mine.

The people of the District of Columbia are not the subjects of the people of the States, but free American citizens. Being in the latter condition when the constitution was formed, no words used in that instrument could have been intended to deprive them of that character. If there is anything in the great principles of unalienable rights, so emphatically insisted upon in our Declaration of Independence, they could neither make, nor the United States accept, a surrender of their liberties, and become the *subjects*, in other words, the slaves, of their former fellow-citizens. If this be true, and it will scarcely be denied by any one who has a correct idea of his own rights as an American citizen, the grant to Congress of exclusive jurisdiction in the District of Columbia, can be interpreted, so far as respects the aggregate people of the United States, as meaning nothing more than to allow to Congress the controlling power necessary to afford a free and safe exercise of the functions assigned to the General Government by the constitution. In all other respects, the legislation of Congress should be adapted to their peculiar position and wants, and be conformable with their deliberate opinions of their own interests.

I have spoken of the necessity of keeping the respective Departments of the Government, as well as all the other authorities of our country, within their appropriate orbits. This is a matter of difficulty in some cases, as the powers which they respectively claim are often not defined by very distinct lines. Mischievous, however, in their tendencies, as collisions of this kind may be, those which arise between the respective communities, which for certain purposes compose one nation, are much more so; for no such nation can long exist without the careful culture of those feelings of confidence and affection which are the effective bonds of union between free and confederated States. Strong as is the tie of interest, it has been often found ineffectual. Men, blinded by their passions, have been known to adopt measures for their country in direct opposition to all the suggestions of policy. The alternative, then, is, to destroy or keep down a bad passion by creating and fostering a good one; and this seems to be the corner stone upon which our American political architects have reared the fabric of our Government. The cement which was to bind it, and perpetuate its

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existence, was the affectionate attachment between all its members. To insure the continuance of this feeling, produced at first by a community of dangers, of sufferings, and of interests, the advantages of each were made accessible to all. No participation in any good, possessed by any member of an extensive confederacy, except in domestic Government, was withheld from the citizen of any other member. By a process attended with no difficulty, no delay, no expense but that of removal, the citizen of one might become the citizen of any other, and successively of the whole. The lines, too, separating powers to be exercised by the citizens of one State from those of another, seem to be so distinctly drawn as to leave no room for misunderstanding. The citizens of each State unite in their persons all the privileges which that character confers, and all that they may claim as citizens of the United States; but in no case can the same person, at the same time, act as the citizen of two separate States, and *he is therefore positively precluded from any interference with the reserved powers of any State but that of which he is, for the time being, a citizen.* He may, indeed, offer to the citizens of other States his advice as to their management, and the form in which it is tendered is left to his own discretion and sense of propriety.

It may be observed, however, that organized associations of citizens, requiring compliance with their wishes, too much resemble the recommendations of Athens to their allies—supported by an armed and powerful fleet. It was, indeed, to the ambition of the leading States of Greece to control the domestic concerns of the others, that the destruction of that celebrated confederacy, and subsequently of all its members, is mainly to be attributed. And it is owing to the absence of that spirit that the Helvetic confederacy has for so many years been preserved. Never has there been seen in the institutions of the separate members of any confederacy more elements of discord. In the principles and forms of Government and religion, as well as in the circumstances of the several cantons, so marked a discrepancy was observable, as to promise any thing but harmony in their intercourse or permanency in their alliance. And yet, for ages, neither has been interrupted. Content with the positive benefits which their union produced, with the independence and safety from foreign aggression which it secured, these sagacious people respected the institutions of each other, however repugnant to their own principles and prejudices.

Our Confederacy, fellow-citizens, can only be preserved by the same forbearance. Our citizens must be content with the exercise of the powers with which the constitution clothes them. The attempt of those of one State to control the domestic institutions of another, can only result in feelings of distrust and jealousy, the certain harbingers of disunion, violence, civil war, and the ultimate destruction of our free institutions. Our Confederacy is perfectly illustrated by the terms and principles governing a common copartnership. There a fund of power is to be exercised under the direction of the joint councils of the allied members, but that which has been reserved by the individual members is intangible to the common government or the individual members composing it. To attempt it finds no support in the principles of our constitution. It should be our constant and earnest endeavor mutually to cultivate a spirit of concord and harmony among the various parts of our

Confederacy. Experience has abundantly taught us, that the agitation by citizens of one part of the Union of a subject not confided to the General Government, but exclusively under the guardianship of the local authorities, is productive of no other consequences than bitterness, alienation, discord, and injury to the very cause which is intended to be advanced. Of all the great interests which appertain to our country, that of union, cordial, confiding, fraternal union, is by far the most important, since it is the only true and sure guarantee of all others.

In consequence of the embarrassed state of business and the currency, some of the States may meet with difficulty in their financial concerns. However deeply we may regret any thing imprudent or excessive in the engagements into which States have entered for purposes of their own, it does not become us to disparage the State Governments, nor to discourage them from making proper efforts for their own relief; on the contrary, it is our duty to encourage them, to the extent of our constitutional authority, to apply their best means, and cheerfully to make all necessary sacrifices, and submit to all necessary burdens to fulfil their engagements and maintain their credit; for the character and credit of the several States form part of the character and credit of the whole country. The resources of the country are abundant, the enterprise and activity of our people proverbial; and we may well hope that wise legislation and prudent administration, by the respective Governments, each acting within its own sphere, will restore former prosperity.

Unpleasant and even dangerous as collisions may sometimes be, between the constituted authorities or the citizens of our country, in relation to the lines which separate their respective jurisdictions, the results can be of no vital injury to our institutions, if that ardent patriotism, that devoted attachment to liberty, that spirit of moderation and forbearance, for which our countrymen were once distinguished, continue to be cherished. If this continues to be the ruling passion of our souls, the weaker feelings of the mistaken enthusiast will be corrected, the Utopian dreams of the scheming politician dissipated, and the complicated intrigues of the demagogue rendered harmless. The spirit of liberty is the sovereign balm for every injury which our institutions may receive. On the contrary, no care that can be used in the construction of our Government, no division of powers, no distribution of checks in its several departments, will prove effectual to keep us a free people, if this spirit is suffered to decay—and decay it will, without constant nurture. To the neglect of this duty, the best historians agree in attributing the ruin of all the Republics with whose existence and fall their writings have made us acquainted. The same causes will ever produce the same effects; and as long as the love of power is a dominant passion of the human bosom, and as long as the understandings of men can be warped and their affections changed by operations upon their passions and prejudices, so long will the liberty of a people depend on their own constant attention to its preservation. The danger to all well-established free Governments arises from the unwillingness of the people to believe in its existence, or from the influence of designing men, diverting their attention from the quarter whence it approaches, to a

source from which it can never come. This is the old trick of those who would usurp the Government of their country. In the name of Democracy they speak, warning the people against the influence of wealth and the danger of aristocracy. History, ancient and modern, is full of such examples. Cæsar became the master of the Roman people and the Senate, under the pretence of supporting the Democratic claims of the former against the aristocracy of the latter; Cromwell, in the character of protector of the liberties of the people, became the dictator of England; and Bolivar possessed himself of unlimited power, with the title of his country's Liberator. There is, on the contrary, no single instance on record of an extensive and well-established Republic being changed into an aristocracy. The tendencies of all such Governments in their decline is to monarchy; and the antagonist principle to liberty there is the spirit of faction—a spirit which assumes the character, and, in times of great excitement, imposes itself upon the people as the genuine spirit of freedom, and like the false Christs whose coming was foretold by the Saviour, seeks to, and were it possible would, impose upon the true and most faithful disciples of liberty. It is in periods like this that it behoves the people to be most watchful of those to whom they have intrusted power. And although there is at times much difficulty in distinguishing the false from the true spirit, a calm and dispassionate investigation will detect the counterfeit as well by the character of its operations, as the results that are produced. The true spirit of liberty, although devoted, persevering, bold, and uncompromising in principle, that secured, is mild and tolerant and scrupulous as to the means it employs; whilst the spirit of party, assuming to be that of liberty, is harsh, vindictive, and intolerant, and totally reckless as to the character of the allies which it brings to the aid of its cause. When the genuine spirit of liberty animates the body of a people to a thorough examination of their affairs, it leads to the excision of every excrescence which may have fastened itself upon any of the Departments of the Government, and restores the system to its pristine health and beauty. But the reign of an intolerant spirit of party amongst a free people, seldom fails to result in a dangerous accession to the Executive power, introduced and established against unusual professions of devotion to Democracy.

The foregoing remarks relate almost exclusively to matters connected with our domestic concerns. It may be proper, however, that I should give some indications to my fellow-citizens of my proposed course of conduct in the management of our foreign relations. I assure them, therefore, that it is my intention to use every means in my power to preserve the friendly intercourse which now so happily subsists with every foreign nation; and that, although, of course, not well informed as to the state of any pending negotiations with any of them, I see in the personal characters of the Sovereigns, as well as in the mutual interest of our own and of the Governments with which our relations are most intimate, a pleasing guarantee that the harmony so important to the interests of their subjects, as well as our citizens, will not be interrupted by the advancement of any claim, or pretension upon their part to which our honor would not permit us to yield. Long the defender of my coun-

try's rights in the field, I trust that my fellow-citizens will not see in my earnest desire to preserve peace with foreign powers, any indication that their rights will ever be sacrificed, or the honor of the nation tarnished, by any admission on the part of their Chief Magistrate unworthy of their former glory.

In our intercourse with our Aboriginal neighbors, the same liberality and justice which marked the course prescribed to me by two of my illustrious predecessors, when acting under their direction in the discharge of the duties of Superintendent and Commissioner, shall be strictly observed. I can conceive of no more sublime spectacle—none more likely to propitiate an impartial and common Creator, than a rigid adherence to the principles of justice on the part of a powerful nation in its transactions with a weaker and uncivilized people, whom circumstances have placed at its disposal.

Before concluding, fellow-citizens, I must say something to you on the subject of the parties at this time existing in our country. To me it appears perfectly clear, that the interest of that country requires that the violence of the spirit by which those parties are at this time governed, must be greatly mitigated, if not entirely extinguished, or consequences will ensue which are appalling to be thought of. If parties in a Republic are necessary to secure a degree of vigilance sufficient to keep the public functionaries within the bonds of law and duty, at that point their usefulness ends. Beyond that, they become destructive of public virtue, the parents of a spirit antagonist to that of liberty, and, eventually, its inevitable conqueror. We have examples of Republics, where the love of country and of liberty, at one time, were the dominant passions of the whole mass of citizens. And yet, with the continuance of the name and forms of free Government, not a vestige of these qualities remaining in the bosom of any one of its citizens. It was the beautiful remark of a distinguished English writer, that "in the Roman Senate, Octavius had a party, and Antony a party, but the Commonwealth had none." Yet the Senate continued to meet in the Temple of Liberty, to talk of the sacredness and beauty of the Commonwealth, and gaze at the statues of the elder Brutus and of the Curtii and Decii. And the people assembled in the forum, not as in those days of Camillus and the Scipios, to cast their free votes for annual magistrates or pass upon the acts of the Senate, but to receive from the hands of the leaders of the respective parties their share of the spoils, and to shout for one or the other, as those collected in Gaul or Egypt and the Lesser Asia, would furnish the larger dividend. The spirit of liberty had fled, and, avoiding the abodes of civilized man, had sought protection in the wilds of Scythia or Scandinavia; and so, under the operation of the same causes and influences, it will fly from our Capitol and our forums. A calamity so awful, not only to our country but to the world, must be deprecated by every patriot; and every tendency to a state of things likely to produce it immediately checked. Such a tendency has existed—does exist. Always the friend of my countrymen, never their flatterer, it becomes my duty to say to them from this high place to which their partiality has exalted me, that there exists in the land a spirit hostile to their best interests—hostile to liberty itself. It is a spirit con-

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*President Harrison's Inaugural Address.*

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tracted in its views, selfish in its object. It looks to the aggrandizement of a few, even to the destruction of the interest of the whole. The entire remedy is with the people. Something, however, may be effected by the means which they have placed in my hands. It is union that we want, not of a party for the sake of that party, but a union of the whole country for the sake of the whole country—for the defence of its interests and its honor against foreign aggression, for the defence of those principles for which our ancestors so gloriously contended. As far as it depends upon me, it shall be accomplished. All the influence that I possess, shall be exerted to prevent the formation at least of an Executive party in the halls of the legislative body. I wish for the support of no member of that body to any measure of mine, that does not satisfy his judgment and his sense of duty to those from whom he holds his appointment, nor any confidence in advance from the people, but that asked for by Mr. Jefferson, "to give firmness and effect to the legal administration of their affairs."

I deem the present occasion sufficiently important and solemn to justify me in expressing to my fellow-citizens a profound reverence for the Christian religion, and a thorough conviction that sound morals, religious liberty, and a just sense of religious responsibility, are essentially connected with all true and lasting happiness; and to that good Being who has blessed us by the gifts of civil and religious freedom, who watched over and prospered the labors of our fathers, and has hitherto preserved to us institutions far exceeding in excellence those of

any other people, let us unite in fervently commending every interest of our beloved country in all future time.

The oath of office was then administered to the PRESIDENT OF THE UNITED STATES by Chief Justice TANEY, and the President concluded his inaugural address as follows:

Fellow-citizens: Being fully invested with that high office to which the partiality of my countrymen has called me, I now take an affectionate leave of you. You will bear with you to your homes the remembrance of the pledge I have this day given to discharge all the high duties of my exalted station, according to the best of my ability; and I shall enter upon their performance with entire confidence in the support of a just and generous people.

On the conclusion of the address, the members of the Senate, preceded by the Vice President, Secretary, and Sergeant-at-arms, returned to the Senate chamber.

Mr. BAYARD submitted the following resolution:

*Resolved,* That the thanks of the Senate be presented to the Hon. WILLIAM R. KING, for the ability and impartiality with which he has discharged the duties of President *pro tem.* of the Senate.

The resolution was considered and agreed to, unanimously.



## TWENTY-SEVENTH CONGRESS.—FIRST SESSION.

BEGUN AT THE CITY OF WASHINGTON, MAY 31, 1841.

*Executive Government for the Fourteenth Presidential Term commencing 4th March, 1841, and ending 3d March, 1845.*

WILLIAM HENRY HARRISON, of Ohio, *President*. [Died April 4, 1841.]

JOHN TYLER, of Virginia, *Vice President*. [Acting President, April 4, 1841.]

*Secretary of State*.—DANIEL WEBSTER. [Appointed March 4, 1841; Resigned July, 1843.] ABEL P. UPSHUR. [Appointed July, 1843; Died February 28, 1844.] JOHN C. CALHOUN. [Appointed March 1, 1844; Retired March 4, 1845.]

*Secretary of the Treasury*.—THOMAS EWING. [Appointed March 4, 1841; Resigned September 11, 1841.] WALTER FORWARD. [Appointed September 11, 1841; Resigned July, 1843.] JOHN C. SPENCER. [Appointed July, 1843; Resigned May, 1844.] GEORGE M. BIBB. [Appointed May, 1844; Retired March 4, 1845.]

*Secretary of War*.—JOHN BELL. [Appointed March 4, 1841; Resigned September 11, 1841.] JOHN C. SPENCER. [Appointed September 11, 1841; Resigned July, 1843.] JAMES M. PORTER. [Appointed July, 1843. Not confirmed.] WILLIAM WILKINS. [Appointed March, 1844. Retired March, 1845.]

*Secretary of the Navy*.—GEORGE E. BADGER. [Appointed March, 1841; Resigned September 11, 1841.] ABEL P. UPSHUR. [Appointed September, 1841; Retired July, 1843.] DAVID HENSHAW. [Appointed July, 1843. Not confirmed.] THOMAS W. GILMER. [Appointed February 19, 1844; Died February 28, 1844.] JOHN Y. MASON. [Appointed March 1, 1844; Retired March 4, 1845.]

*Postmaster General*.—FRANCIS GRANGER. [Appointed March 4, 1841; Resigned September, 1841.] CHARLES A. WICKLIFFE. [Appointed September, 1841; Retired March, 1845.]

*Attorney-General*.—JOHN J. CRITTENDEN. [Appointed March, 1841; Resigned September, 1841.] HUGH S. LEGARE. [Appointed September, 1841; Retired July 1843.] JOHN NELSON. [Appointed July, 1843; Retired March, 1845.]

## PROCEEDINGS AND DEBATES

IN THE

## SENATE AND HOUSE OF REPRESENTATIVES.\*

IN SENATE.

MONDAY, May 31.

In pursuance of the proclamation of the President of the United States, the Senate convened this day, and was called to order by Mr. SOUTHARD, the President *pro tempore*.

Mr. MANGUM moved that the Secretary call over the names of the Senators, so that it might be ascertained whether a quorum was present.

Mr. KING said that the usual mode of proceeding was for the presiding officer to direct the Sergeant-at-Arms to ascertain whether a quorum was present.

The suggestion of Mr. K. being acquiesced in, the Sergeant-at-Arms reported that a quorum of the Senate was present.

Forty-three Senators appeared in their places. On motion by Mr. BAYARD it was

### \* LIST OF MEMBERS OF THE SENATE.

*Maine*.—Buel Williams, George Evans.  
*New Hampshire*.—Franklin Pierce, Levi Woodbury.  
*Vermont*.—Samuel Prentiss, Samuel Phelps.  
*Massachusetts*.—Eufus Choate, Isaac Bates.  
*Rhode Island*.—Nathan F. Dixon, James F. Simmons.  
*Connecticut*.—Perry Smith, Jabez W. Huntington.  
*New York*.—Silas Wright, Jr., Nathaniel P. Tallmadge.  
*New Jersey*.—Samuel L. Southard, Jacob W. Miller.  
*Pennsylvania*.—Daniel Sturgeon, James Buchanan.

*Delaware*.—Richard H. Bayard, Thomas Clayton.  
*Maryland*.—Mr. Kerr, William D. Merrick.  
*Virginia*.—William C. Rives, William S. Archer.  
*North Carolina*.—Mr. Graham, Willie P. Magnum.  
*South Carolina*.—William C. Preston, John C. Calhoun.  
*Georgia*.—John M. Berrien, Alfred Outhbert.  
*Alabama*.—William R. King, Clement C. Clay.  
*Mississippi*.—Robert J. Walker, John Henderson.  
*Louisiana*.—Mr. Barrow, Alexander Mouton.  
*Tennessee*.—  
*Kentucky*.—Henry Clay, J. J. Morehead.

[1st Sess.]

Preliminary Proceedings.

[MAY, 1841.]

*Resolved*, That a Message be sent to the House of Representatives, informing that body that a quorum of the Senate is assembled, and that it is ready to proceed to business.

On motion by Mr. WHITE, the Senate then took a recess until half-past 2 o'clock.

The Senate resumed its sitting at ten minutes before three o'clock.

Mr. CLAY, of Kentucky, said, that he believed the object of the recess was to afford an opportunity for the organization of the other House, so that a joint committee could be form-

ed to wait upon the President. As it was now probable the organization of the other House would not be complete till a late hour, he would move an adjournment of the Senate till eleven o'clock to-morrow morning.

This motion being seconded, and unanimously adopted, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, May 31.

The House was called to order at twelve o'clock by H. A. GARLAND, Clerk of the House

*Ohio*.—William Allen, Benjamin Tappan.

*Indiana*.—Oliver H. Smith, Albert S. White.

*Illinois*.—Richard M. Young, Samuel McRoberts.

*Missouri*.—Lewis F. Linn, Thomas H. Benton.

*Michigan*.—Mr. Porter, Mr. Woodbridge.

*Arkansas*.—Ambrose H. Sevier, William S. Fulton.

## \* LIST OF MEMBERS OF THE HOUSE OF REPRESENTATIVES.

*Maine*.—Eliash H. Allen, David Bronson, Nathan Clifford, William P. Fessenden, Nathaniel S. Littlefield, Joshua A. Lowell, Alfred Marshall, Benjamin Randall.

✓ *New Hampshire*.—Charles G. Atherton, Edmund Burke, Ira A. Eastman, John R. Redding, Tristram Shaw.

*Massachusetts*.—John Quincy Adams, Osmyn Baker, Nathaniel B. Borden, George N. Briggs, Barker Burnell, Wm. B. Calhoun, Caleb Cushing, William S. Hastings, Charles Hudson, William Parmenter, Leverett Saltonstall, Robert C. Winthrop.

*Rhode Island*.—Robert B. Cranston, Joseph L. Tillinghast.

*Connecticut*.—William W. Boardman, John H. Brockway, Thomas B. Osborne, Truman Smith, Joseph Trumbull, Thos. W. Williams.

*Vermont*.—Horace Everett, Hiland Hall, John Mattocks, William Slade, Augustus Young.

✓ *New York*.—Alfred Babcock, Daniel D. Barnard, Victory Birdseye, Bernard Blair, Samuel S. Bowne, David P. Brewster, Timothy Childs, Thomas C. Chittenden, Staley N. Clarke, John C. Clark, James G. Clinton, Richard D. Davis, Andrew W. Deig, Joseph Egbert, Charles G. Ferris, Millard Fillmore, John G. Floyd, Charles A. Floyd, A. Lawrence Foster, Seth M. Gates, Samuel Gordon, John Greig, Jacob Houck, Jr., Hiram P. Hunt, Archibald L. Linn, Robert McClellan, John McKeon, John Maynard, Christopher Morgan, William M. Oliver, Samuel Partridge, Lewis Riggs, James I. Roosevelt, John Sanford, Thomas A. Tomlinson, John Van Buren, Henry Van Rensselaer, Aaron Ward, Fernando Wood, John Young.

*New Jersey*.—John B. Ayer, William Halstead, John P. B. Maxwell, Joseph F. Randolph, Charles C. Stratton, Thomas Jones Yorke.

✓ *Pennsylvania*.—Benjamin A. Bidlack, Charles Brown, Jeremiah Brown, James Cooper, Davis Dimock, Jr., John Edwards, Joseph Farnance, James Gerry, Amos Gustine, Thomas Henry, Charles J. Ingersoll, James Irwin, William W. Irwin, William Jack, Francis James, George M. Keim, Joseph Lawrence, Albert G. Marchand, Peter Newhard, Arnold Plumer, Robert Ramsey, John Sergeant, William Simenton, John Snyder, George W. Toland, John Westbrook.

*Delaware*.—George B. Rodney.

✓ *Maryland*.—William Cost Johnson, Isaac B. Jones, John P. Kennedy, John Thompson Mason, James A. Pearce,

Alexander Randall, Augustus A. Sellers, James W. Williams.

✓ *Virginia*.—Linn Banks, Richard W. Barton, John M. Botta, George W. Cary, Walter Coles, Thomas W. Gilmer, William L. Goggin, William O. Goode, William A. Harris, Samuel L. Hays, George W. Hopkins, Robert M. T. Hunter, Edmund W. Hubbard, John W. Jones, Francis Mallory, Cuthbert Powell, Lewis Steinrod, Alexander H. H. Stuart, George W. Summers, John Taliaferro, Henry A. Wise.

✓ *North Carolina*.—Archibald H. Arrington, Green W. Caldwell, John R. J. Daniel, Edmund Deberry, James Graham, James J. McKay, Kenneth Rayner, Abraham Rencher, Romulus M. Saunders, Augustine H. Shepperd, Edward Stanly, Lewis Williams, William H. Washington.

*South Carolina*.—Sampson H. Butler, William Butler, Patrick C. Caldwell, John Campbell, Isaac E. Holmes, Francis W. Pickens, R. Barnwell Rhett, James Rogers Thomas D. Sumpter.

✓ *Georgia*.—Julius C. Alford, William C. Dawson, Roger L. Gamble, Richard W. Habersham, Thomas Butler King, James A. Meriwether, Eugenius A. Nesbit, Lot Warren, Thomas A. Foster.

✓ *Kentucky*.—Landaff W. Andrews, Lynn Boyd, William O. Butler, Garret Davis, Willis Green, Thomas F. Marshall, Bryan Y. Owsley, John Pope, James C. Sprigg, John B. Thompson, Philip Triplett, Joseph R. Underwood, John White.

✓ *Tennessee*.—Thomas D. Arnold, Milton Brown, William B. Campbell, Thomas J. Campbell, Robert L. Caruthers, Meredith P. Gentry, Cave Johnson, Abraham McClellan, Hopkins L. Turney, Harvey M. Watterson, Christopher H. Williams, Joseph L. Williams, Aaron V. Brown.

✓ *Ohio*.—Shorlock J. Andrews, Benjamin S. Cowen, Ezra Dean, William Dean, Joshua R. Giddings, Patrick G. Goode, John Hastings, Samson Mason, Joshua Mathiot, James Matthews, William Medill, Calvary Morris, Jeremiah Morrow, N. G. Pendleton, Joseph Ridgway, William Russell, Samuel Stokely, George Sweney, John B. Weller.

*Louisiana*.—John Moore, Edward D. White, John B. Davison.

✓ *Indiana*.—James H. Cravens, Andrew Kennedy, Henry S. Lane, George H. Proffit, Richard W. Thompson, David Wallace, Joseph L. White.

✓ *Missouri*.—John C. Edwards, John Miller.

*Arkansas*.—Edward Cross.

*Michigan*.—Jacob M. Howard.

✓ *Mississippi*.—A. L. Bingham, W. R. Harley.

✓ *Alabama*.—Reuben Chapman, George S. Houston, Dixon H. Lewis, Benj. G. Shields.

✓ *Illinois*.—Zadock Casey, John Reynolds, John T. Stuart.

## DELEGATES.

*Florida*.—David Levy.

*Wisconsin*.—Henry Hodge. (Dodge)

*Iowa*.—Augustus C. Hodge. (Dodge)

of Representatives of the last Congress, who, having read the Proclamation of the President of the United States requiring their attendance, proceeded to call over the roll by States.

Mr. HALSTEAD inquired of the Clerk by what authority the name of LINN BANKS had been placed upon the roll. Mr. H. said he understood that there was a gentleman who contested the seat, and claimed to have received a majority of legal votes.

The CLERK, in explanation, read the certificate of election from the Acting Governor of Virginia, in which, among the names of the members of Congress elect from that State, appeared the name of the Hon. LINN BANKS.

The CLERK having announced that there were two hundred and seven members present,

Mr. HUNT offered a resolution, that the House now proceed to organize by choosing a Speaker.

The House accordingly proceeded to the election of a speaker; and Messrs. UNDERWOOD, J. C. CLARK, and ATHERTON having been appointed tellers, the result was announced as follows:

Whole number of votes	-	-	221
Necessary to a choice	-	-	111
Of which JOHN WHITE received	-	121	
JOHN W. JONES	-	84	
HENRY A. WISE	-	8	
JOSEPH LAWRENCE	-	5	
GEORGE N. BRIGGS	-	1	
NATHAN CLIFFORD	-	1	
WILLIAM C. JOHNSON	-	1	

The Hon. JOHN WHITE having received a majority of the whole number of votes, was therefore declared duly elected Speaker of the 27th Congress; and having been conducted to the Chair by Mr. TRIPLETT and Mr. KEIM, addressed the House as follows:

GENTLEMEN: I cannot sufficiently express the obligations I feel for the distinguished honor conferred upon me. I undertake the discharge of the duties of this station with unfeigned distrust of my qualifications. I am sensible of the magnitude and difficulty of the task, of its arduous duties, of its high responsibilities. Six years' service in this body has taught me that this chair is no bed of down, especially in a time of great political excitement. Nothing but a conviction that the same generous confidence which placed me here would continue to support me in the faithful and impartial discharge of my duty, could have induced me to accept this office. The duty of presiding over a numerous assembly like this, when even no party divisions exist—when no other than ordinary business is proposed to be considered and passed upon, is no easy task. But perhaps there has been no period in the history of this country when the duties of this Chair were more important, its responsibilities greater, its intrinsic difficulties more embarrassing. Independent of that excited party feeling—the natural result, in all free Governments, of personal rivalry—the consideration and discussion of those great questions which have caused the convention of this special Congress, will no doubt give rise to high political excitement. Under these

circumstances, I dare not hope I shall be able to give unqualified satisfaction, no matter how faithful, how zealous, how impartial I may be. It shall, however, be my constant purpose to discharge the functions of this station with a singleness of purpose and a fidelity of intention that will secure to me the approbation, I trust, of the just and liberal of all parties.

Candor, gentlemen, compels me to say I have never made the rules of this House or Parliamentary law my particular study. Experience in discharge of the duties of this Chair, I may say I have none. The qualifications necessary to a prompt and able discharge of the duties of Speaker are multifarious—some of them difficult. I will not detain you to enumerate them all; the mention of one, however, which I consider paramount to all others, I cannot omit; I need scarcely say I allude to that of *impartiality*—a rigid and uncompromising impartiality towards every member; to the exercise of this qualification I pledge myself. The occupant of this chair should neither lend the influence of his position to make the House subservient to Executive dictation, nor, on the other hand, to encourage a factious opposition of Executive recommendations. Passive obedience to Executive will is not less fatal to liberty than anarchy itself. The true spirit of a House of Representatives is to reflect faithfully the *popular will*. If it be true, as I hope and believe it is, that this House is the citadel of American freedom—the great sheet-anchor of the constitution—the grand inquest of the nation—should not all its deliberations be characterized with order, with decorum, with dignity? I invoke you gentlemen, let all our proceedings be marked with forbearance, moderation, courtesy, and patriotism. If, by any means, this body has impaired its high character as a dignified deliberative assembly, let us unite, one and all, to restore it to its former good standing. Nothing, in my humble judgment, would so effectually secure the perpetuity of our free institutions as a *sacred observance* of order in the deliberations of this House.

In conclusion, gentlemen, accept my grateful thanks for this high mark of confidence and respect. And I entreat you, let all our proceedings be such as to sustain the dignity of this House, maintain the honor of the country, promote the public good, and preserve, unimpaired, the integrity of this glorious Union.

The oath of office was thereupon administered to the Speaker by Mr. LEWIS WILLIAMS, of North Carolina, the gentleman holding the oldest commission as a member of this House.

The members present were then qualified, by taking the oath prescribed in the Constitution of the United States.

Mr. WISE moved that the House do now proceed to the election of a Clerk *visa voce*.

The question was taken on the motion of Mr. WISE, and it was agreed to.

A message was here received from the Senate, announcing the organization of that body, and that it was ready to proceed to business.

The House then proceeded to the election of a Clerk.

Mr. WISE nominated Matthew St. Clair Clarke.

Mr. RANDALL nominated F. O. J. Smith.

Mr. POWELL nominated R. C. Mason.

Mr. GOODE nominated Hugh A. Garland.

Mr. CLARKE having received a majority of

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*The President's Message.*

[JUNE, 1841.]

all the votes, was declared duly elected Clerk of the House of Representatives.

Mr. CAMPBELL, of South Carolina, introduced his colleague, the Hon. JAMES ROGERS, Representative elect from that State, who was qualified, and took his seat.

## IN SENATE.

TUESDAY, June 1.

A Message was received from the President of the United States, by Mr. JOHN TYLER, his private Secretary.

*President's Message.*

The CHAIR submitted to the Senate a Message from the President of the United States, which was read, and is as follows:

*To the Senate and**House of Representatives of the United States:*

FELLOW CITIZENS: You have been assembled in your respective halls of legislation under a proclamation bearing the signature of the illustrious citizen who was so lately called by the direct suffrages of the people to the discharge of the important functions of their chief executive office. Upon the expiration of a single month from the day of his installation, he has paid the great debt of nature, leaving behind him a name associated with the recollection of numerous benefits conferred upon the country during a long life of patriotic devotion. With this public bereavement, are connected other considerations which will not escape the attention of Congress. The preparations necessary for his removal to the seat of Government in view of a residence of four years must have devolved upon the late President heavy expenditures, which, if permitted to burden the limited resources of his private fortune, may tend seriously to the embarrassment of his surviving family; and it is therefore respectfully submitted to Congress whether the ordinary principles of justice would not dictate the propriety of its legislative interposition. By the provisions of the fundamental law, the powers and duties of the high station to which he was elected have devolved upon me, and in the dispositions of the representatives of the States and of the people, will be found to a great extent a solution of the problem to which our institutions are for the first time subjected.

In entering upon the duties of this office, I did not feel that it would be becoming in me to disturb what had been ordered by my lamented predecessor. Whatever, therefore, may have been my opinion, originally, as to the propriety of convening Congress at so early a day from that of its late adjournment, I found a new and a controlling inducement not to interfere with the patriotic desires of the late President, in the novelty of the situation in which I was so unexpectedly placed. My first wish under such circumstances would necessarily have been to have called to my aid, in the administration of public affairs, the combined wisdom of the two Houses of Congress, in order to take their counsel and advice as to the best mode of extricating the Government and the country from the embarrassments weighing heavily on both. I am then most happy in finding myself, so soon after my accession to the Presidency, surrounded

by the immediate representatives of the States and people.

No important changes having taken place in our foreign relations since the last session of Congress, it is not deemed necessary on this occasion to go into a detailed statement in regard to them. I am happy to say that I see nothing to destroy the hope of being able to preserve peace.

The ratification of the treaty with Portugal has been duly exchanged between the two Governments. This Government has not been inattentive to the interests of those of our citizens who have claims on the Government of Spain founded on express treaty stipulations, and a hope is indulged that the representations which have been made to that Government on this subject may lead ere long to beneficial results.

A correspondence has taken place between the Secretary of State and the Minister of Her Britannic Majesty accredited to this Government, on the subject of Alexander McLeod's indictment and imprisonment, copies of which are herewith communicated to Congress.

In addition to what appears from those papers, it may be proper to state that Alexander McLeod has been heard by the Supreme Court of the State of New York on his motion to be discharged from imprisonment, and that the decision of that Court has not as yet been pronounced.

The Secretary of State has addressed to me a paper upon two subjects, interesting to the commerce of the country, which will receive my consideration, and which I have the honor to communicate to Congress.

So far as it depends upon the course of this Government, our relations of good will and friendship will be sedulously cultivated with all nations. The true American policy will be found to consist in the exercise of a spirit of justice to be manifested in the discharge of all our international obligations, to the weakest of the family of nations as well as to the most powerful. Occasional conflicts of opinion may arise, but when the discussions incident to them are conducted in the language of truth and with a strict regard to justice, the scourge of war will for the most part be avoided. The time ought to be regarded as having gone by when a resort to arms is to be esteemed as the only proper arbiter of national differences.

The census recently taken shows a regularly progressive increase in our population. Upon the breaking out of the war of the Revolution, our numbers scarcely equalled three millions of souls; they already exceed seventeen millions, and will continue to progress in a ratio which duplicates in a period of about twenty-three years. The old States contain a territory sufficient in itself to maintain a population of additional millions, and the most populous of the new States may even yet be regarded as but partially settled, while of the new lands on this side of the Rocky Mountains, to say nothing of the immense region which stretches from the base of those mountains to the mouth of the Columbia River, about 770,000,000 of acres, ceded and uncaded, still remain to be brought into market. We hold out to the people of other countries an invitation to come and settle among us as members of our rapidly growing family; and, for the blessings which we offer them, we require of them to look upon our country as their country, and to unite with us in the great task of preserving

our institutions, and thereby perpetuating our liberties. No motive exists for foreign conquest. We desire but to reclaim our almost illimitable wilderness, and to introduce into their depths the lights of civilization. While we shall at all times be prepared to vindicate the national honor, our most earnest desire will be to maintain an unbroken peace.

In presenting the foregoing views, I cannot withhold the expression of the opinion that there exists nothing in the extension of our empire over our acknowledged possessions to excite the alarm of the patriot for the safety of our institutions. The federative system, leaving to each State the care of its domestic concerns, and devolving on the Federal Government those of general import, admits in safety of the greatest expansion; but, at the same time, I deem it proper to add, that there will be found to exist at all times an imperious necessity for restraining all the functionaries of this Government within the range of their respective powers, thereby preserving a just balance between the powers granted to this Government, and those reserved to the States and to the people.

From the report of the Secretary of the Treasury, you will perceive that the fiscal means, present and accruing, are insufficient to supply the wants of the Government for the current year. The balance in the Treasury on the fourth day of March last, not covered by outstanding drafts, and exclusive of trust funds, is estimated at \$860,000. This includes the sum of \$215,000 deposited in the Mint and its branches to procure metal for coining and in process of coinage, and which could not be withdrawn without inconvenience; thus leaving subject to draft in the various depositories the sum of \$645,000. By virtue of two several acts of Congress, the Secretary of the Treasury was authorized to issue, on and after the fourth day of March last, Treasury notes to the amount of \$5,413,000, making an aggregate available fund of \$6,058,000 on hand.

But this fund was chargeable with outstanding Treasury notes redeemable in the current year, and interest thereon, to the estimated amount of five million two hundred and eighty thousand dollars. There is also thrown upon the Treasury the payment of a large amount of demands accrued in whole or in part in former years, which will exhaust the available means of the Treasury, and leave the accruing revenue, reduced as it is in amount, burdened with debt, and charged with the current expenses of the Government. The aggregate amount of outstanding appropriations on the fourth day of March last, was \$38,429,616 50, of which \$24,210,000 will be required during the current year; and there will also be required for the use of the War Department additional appropriations to the amount of two million five hundred and eleven thousand one hundred and thirty-two dollars and ninety-eight cents, the special objects of which will be seen by reference to the report of the Secretary of War.

The anticipated means of the Treasury are greatly inadequate to this demand. The receipts from customs for the last three quarters of the last year, and the first quarter of the present year, amounted to \$12,100,000; the receipts for lands for the same time to \$2,742,250, showing an average revenue from both sources of \$1,236,870 per month. A gradual expansion of trade, growing out of a restoration of confidence, together with a reduction in the expenses of collecting, and punctuality on the part of collecting officers, may cause an addition to the monthly

receipts from the customs. They are estimated for the residue of the year from the fourth of March at \$12,000,000; the receipts from the public lands for the same time are estimated at \$2,500,000, and from miscellaneous sources at \$170,000, making an aggregate of available funds within the year of \$14,670,000, which will leave a probable deficit of \$11,408,182 98. To meet this, some temporary provision is necessary, until the amount can be absorbed by the excess of revenues which are anticipated to accrue at no distant day.

There will fall due within the next three months, Treasury notes of the issues of 1840, including interest, about \$2,850,000. There is chargeable in the same period for arrearages for taking the sixth census \$294,000; and the estimated expenditures for the current service are about \$8,100,000, making the aggregate demands upon the Treasury, prior to the 1st of September next, about \$11,340,000.

The ways and means in the Treasury, and estimated to accrue within the above-named period, consist of about \$694,000, of funds available on the 28th ultimo; and unissued balance of Treasury notes authorized by the act of 1841, amounting to \$1,955,000, and estimated receipts from all sources of \$3,800,000, making an aggregate of about \$6,450,000, and leaving a probable deficit on the 1st of September next, of \$4,845,000.

In order to supply the wants of the Government, an intelligent constituency, in view of their best interests, will, without hesitation, submit to all necessary burdens. But it is nevertheless important so to impose them as to avoid defeating the just expectations of the country, growing out of pre-existing laws. The act of the 2d March, 1833, commonly called the compromise act, should not be altered, except under urgent necessities, which are not believed at this time to exist. One year only remains to complete the series of reductions provided for by that law, at which time provisions made by the same law, and which then will be brought actively in aid of the manufacturing interests of the Union, will not fail to produce the most beneficial results. Under a system of discriminating duties imposed for purposes of revenue, in unison with the provisions of existing laws, it is to be hoped that our policy will, in the future, be fixed and permanent, so as to avoid those constant fluctuations which defeat the very objects they have in view. We shall thus best maintain a position which, while it will enable us the more readily to meet the advances of other countries calculated to promote our trade and commerce, will at the same time leave in our own hands the means of retaliating with greater effect unjust regulations.

In intimate connection with the question of revenue is that which makes provision for a suitable fiscal agent, capable of adding increased facilities in the collection and disbursement of the public revenues, rendering more secure their custody, and consulting a true economy in the great multiplied and delicate operations of the Treasury Department. Upon such an agent depends in an eminent degree the establishment of a currency of uniform value, which is of so great importance to all the essential interests of society; and on the wisdom to be manifested in its creation much depends. So intimately interwoven are its operations not only with the interests of individuals but with those of the States, that it may be regarded in a great degree as controlling both. If paper be used as the chief medium of circulation, and the power be vested in the Government of issuing it

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at pleasure, either in the form of Treasury drafts, or any other, or if banks be used as the public depositories, with liberty to regard all surpluses from day to day as so much added to their active capital, prices are exposed to constant fluctuations, and industry to severe suffering. In the one case, political considerations, directed to party purposes, may control, while excessive cupidity may prevail in the other. The public is thus constantly liable to imposition. Expansions and contractions may follow each other in rapid succession, the one engendering a reckless spirit of adventure and speculation, which embraces States as well as individuals; the other causing a fall in prices, and accomplishing an entire change in the state of affairs. Stocks of all kinds rapidly decline—individuals are ruined, and States embarrassed even in their efforts to meet with punctuality the interest on their debts. Such, unhappily, is the state of things now existing in the United States. These effects may readily be traced to the causes above referred to. The public revenues, on being removed from the then Bank of the United States, under an order of a late President, were placed in selected State Banks, which, actuated by the double motive of conciliating the Government and augmenting their profits to the greatest possible extent, enlarged extravagantly their discounts, thus enabling all other existing banks to do the same. Large dividends were declared, which, stimulating the cupidity of capitalists, caused a rush to be made to the Legislatures of the respective States for similar acts of incorporation, which, by many of the States, under a temporary infatuation, were readily granted, and thus the augmentation of the circulating medium, consisting almost exclusively of paper, produced a most fatal delusion. An illustration, derived from the land sales of the period alluded to, will serve best to show the effect of the whole system. The average sales of the public lands, for a period of ten years prior to 1834, had not much exceeded \$2,000,000 per annum. In 1834 they attained, in round numbers, to the amount of \$6,000,000. In the succeeding year of 1835 they reached \$16,000,000. And the next year of 1836, they amounted to the enormous sum of \$25,000,000. Thus crowding into the short space of three years upwards of twenty-three years' purchase of the public domain. So apparent had become the necessity of arresting this course of things, that the Executive department assumed the highly questionable power of discriminating in the funds to be used, in payment by different classes of public debtors—a discrimination which was doubtless designed to correct this most ruinous state of things by the exaction of specie in all payments for the public lands, but which could not at once arrest the tide which had so strongly set in. Hence the demands for specie became unceasing, and corresponding prostration rapidly ensued under the necessities created with the banks to curtail their discounts, and thereby to reduce their circulation. I recur to these things with no disposition to censure pre-existing administrations of the Government, but simply in exemplification of the truth of the position which I have assumed. If, then, any fiscal agent which may be created shall be placed, without due restrictions, either in the hands of the administrators of the Government or hosts of private individuals, the temptation to abuse will prove to be resistless. Objects of political aggrandizement may seduce the first, and the promptings of a boundless cupidity will assail the last. Aided by the experience of the past, it will be the pleasure of Congress so to

guard and fortify the public interests, in the creation of any new agent, as to place them, so far as human wisdom can accomplish it, on a footing of perfect security. Within a few years past, three different schemes have been before the country. The charter of the Bank of the United States expired by its own limitations in 1836. An effort was made to renew it, which received the sanction of the two Houses of Congress, but the then President of the United States exercised his  *veto*  power, and the measure was defeated. A regard to truth requires me to say that the President was fully sustained in the course he had taken, by the popular voice. His successor in the Chair of State unqualifiedly pronounced his opposition to any new charter of a similar institution; and not only the popular election which brought him into power, but the elections through much of his term, seemed clearly to indicate a concurrence with him in sentiment on the part of the people. After the public moneys were withdrawn from the United States Bank, they were placed in deposit with the State banks, and the result of that policy has been before the country. To say nothing as to the question whether that experiment was made under propitious or adverse circumstances, it may safely be asserted that it did receive the unqualified condemnation of most of its early advocates, and it is believed was also condemned by the popular sentiment. The existing Sub-Treasury system does not seem to stand in higher favor with the people, but has recently been condemned in a manner too plainly indicated to admit of a doubt. Thus, in the short period of eight years, the popular voice may be regarded as having successively condemned each of the three schemes of finance to which I have adverted. As to the first, it was introduced at a time (1816) when the State banks, then comparatively few in number, had been forced to suspend specie payments, by reason of the war which had previously prevailed with Great Britain. Whether, if the United States Bank charter which expired in 1811 had been renewed in due season, it would have been enabled to continue specie payments during the war and the disastrous period to the commerce of the country which immediately succeeded, is, to say the least, problematical; and whether the United States Bank of 1816, produced a restoration of specie payments, or the same was accomplished through the instrumentality of other means, was a matter of some difficulty at that time to determine. Certain it is that, for the first years of the operation of that Bank, its course was as disastrous as for the greater part of its subsequent career it became eminently successful. As to the second, the experiment was tried with a redundant Treasury, which continued to increase until it seemed to be the part of wisdom to distribute the surplus revenue among the States, which, operating at the same time, with the specie circular, and the causes before adverted to, caused them to suspend specie payments, and involved the country in the greatest embarrassments. And, as to the third, if carried through all the stages of its transmutation, from paper and specie to nothing but the precious metals, to say nothing of the insecurity of the public moneys, its injurious effects have been anticipated by the country in its unqualified condemnation. What is now to be regarded as the judgment of the American people on this whole subject, I have no accurate means of determining but by appealing to their more immediate representatives. The late contest which terminated in the election of Gen. Harrison to the Presidency, was decided on

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principles well known and openly declared: and, while the Sub-Treasury received in the result the most decided condemnation, yet no other scheme of finance seemed to have been concurred in. To you, then, who have come more directly from the body of our common constituents, I submit the entire question, as best qualified to give a full exposition of their wishes and opinions. I shall be ready to concur with you in the adoption of such system as you may propose, reserving to myself the ultimate power of rejecting any measure which may in my view of it conflict with the constitution, or otherwise jeopard the prosperity of the country; a power which I could not part with even if I would, but which I will not believe any act of yours will call into requisition.

I cannot avoid recurring, in connection with this subject, to the necessity which exists for adopting some suitable measure whereby the unlimited creation of banks by the States may be corrected in future. Such result can be most readily achieved by the consent of the States, to be expressed in the form of a compact among themselves, which they can only enter into with the consent and approbation of this Government; a consent which might in the present emergency of the public demands, justifiably be given in advance of any action by the States, as an inducement to such action upon terms well defined by the act of tender. Such a measure, addressing itself to the calm reflection of the States, would find in the experience of the past, and the condition of the present, much to sustain it. And it is greatly to be doubted whether any scheme of finance can prove for any length of time successful, while the States shall continue in the unrestrained exercise of the power of creating banking corporations. This power can only be limited by their consent.

With the adoption of a financial agency of a satisfactory character, the hope may be indulged that the country may once more return to a state of prosperity. Measures auxiliary thereto, and, in some measure, inseparably connected with its success, will doubtless claim the attention of Congress. Among such, a distribution of the proceeds of the sales of the public lands, provided such distribution does not force upon Congress the necessity of imposing upon commerce heavier burdens than those contemplated by the act of 1833, would act as an efficient remedial measure, by being brought directly in aid of the States. As one sincerely devoted to the task of preserving a just balance in our system of government, by the maintenance of the States in a condition the most free and respectable, and in the full possession of all their power, I can no otherwise than feel desirous for their emancipation from the situation to which the pressure on their finances now subjects them; and while I must repudiate as a measure founded in error, and wanting constitutional sanction, the slightest approach to an assumption by this Government of the debts of the States, yet I can see, in the distribution adverted to, much to recommend it. The compacts between the proprietor States and this Government expressly guarantee to the States all the benefits which may arise from the sales. The mode by which this is to be effected addresses itself to the discretion of Congress, as the trustee for the States; and its exercise, after the most beneficial manner, is restrained by nothing in the grants or in the constitution, so long as Congress shall consult that equality in the distribution which the compacts re-

quire. In the present condition of some of the States, the question of distribution may be regarded substantially as a question between direct and indirect taxation. If the distribution be not made in some form or other, the necessity will daily become more urgent with the debtor States for a resort to an oppressive system of direct taxation, or their credit, and necessarily their power and influence, will be greatly diminished. The payment of taxes, after the most inconvenient and oppressive mode, will be exacted in place of contributions for the most part voluntarily made, and therefore comparatively unoppressive. The States are emphatically the constituents of this Government, and we should be entirely regardless of the objects held in view by them in the creation of this Government, if we could be indifferent to their good. The happy effects of such a measure upon all the States would immediately be manifested. With the debtor States it would effect the relief, to a great extent, of the citizens from a heavy burden of direct taxation which presses with severity on the laboring classes, and eminently assist in restoring the general prosperity. An immediate advance would take place in the price of the State securities, and the attitude of the States would become once more, as it should ever be, lofty and erect. With States laboring under no extreme pressure from debt, the fund which they would derive from this source would enable them to improve their condition in an eminent degree. So far as this Government is concerned, appropriations to domestic objects, approaching in amount the revenue derived from the land sales, might be abandoned, and thus a system of unequal, and therefore unjust, legislation would be substituted by one dispensing equality to all the members of this Confederacy. Whether such distribution should be made directly to the States in the proceeds of the sales, or in the form of profits by virtue of the operations of any fiscal agency having those proceeds as its basis, should such measure be contemplated by Congress, would well deserve its consideration. Nor would such disposition of the proceeds of the sales in any manner prevent Congress, from time to time, from passing all necessary pre-emption laws for the benefit of actual settlers, or for making any new arrangement as to the price of the public lands which might in future be esteemed desirable.

I beg leave particularly to call your attention to the accompanying report from the Secretary of War. Besides the present state of the war which has so long afflicted the Territory of Florida, and the various other matters of interest therein referred to, you will learn from it that the Secretary has instituted an inquiry into abuses, which promises to develop gross enormities in connection with Indian treaties which have been negotiated, as well as in the expenditures for the removal and subsistence of the Indians. He represents, also, other irregularities of a serious nature that have grown up in the practice of the Indian Department, which will require the appropriation of upwards of \$200,000 to correct, and which claim the immediate attention of Congress.

In reflecting on the proper means of defending the country, we cannot shut our eyes to the consequences which the introduction and use of the power of steam upon the ocean are likely to produce in wars between maritime States. We cannot yet see the extent to which this power may be ap-

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plied in belligerent operations; connecting itself as it does with recent improvements in the science of gunnery and projectiles; but we need have no fear of being left, in regard to these things, behind the most active and skilful of other nations, if the genius and enterprise of our fellow-citizens receive proper encouragement and direction from Government.

True wisdom would, nevertheless, seem to dictate the necessity of placing in perfect condition those fortifications which are designed for the protection of our principal cities and roadsteads. For the defence of our extended maritime coast, our chief reliance should be placed on our navy, aided by those inventions which are destined to recommend themselves to public adoption. But no time should be lost in placing our principal cities on the seaboard and the lakes in a state of entire security from foreign assault. Separated as we are from the countries of the old world, and in much unaffected by their policy, we are happily relieved from the necessity of maintaining large standing armies in time of peace. The policy which was adopted by Mr. Monroe, shortly after the conclusion of the late war with Great Britain, of preserving a regularly organized staff sufficient for the command of a large military force, should a necessity for one arise, is founded as well in economy as in true wisdom. Provision is thus made, upon filling up the rank and file, which can readily be done on any emergency, for the introduction of a system of discipline both promptly and efficiently. All that is required in time of peace is to maintain a sufficient number of men to guard our fortifications, to meet any sudden contingency, and to encounter the first shock of war. Our chief reliance must be placed on the militia. They constitute the great body of national guards, and, inspired by an ardent love of country, will be found ready at all times and at all seasons to repair with alacrity to its defence. It will be regarded by Congress, I doubt not, at a suitable time, as one of its highest duties to attend to their complete organization and discipline.

The state of the navy pension fund requires the immediate attention of Congress. By the operation of the act of the 3d of March, 1837, entitled "An act for the more equitable administration of the navy pension fund," that fund has been exhausted. It will be seen from the accompanying report of the Commissioner of Pensions that there will be required for the payment of navy pensioners, on the 1st of July next, \$84,006 06½, and on the first of January, 1842, the sum of \$60,000. In addition to these sums, about \$6,000 will be required to pay arrears of pensions which will probably be allowed between the first of July and the first of January, 1842, making in the whole \$150,006 06½. To meet these payments there is within the control of the Department the sum of \$23,040, leaving a deficit of \$121,966 06½. The public faith requires that immediate provision should be made for the payment of these sums.

In order to introduce into the navy a desirable efficiency, a new system of accountability may be found to be indispensably necessary. To mature a plan having for its object the accomplishment of an end so important, and to meet the just expectations of the country, require more time than has yet been allowed to the Secretary at the head of the Department. The hope is indulged that by the time of your

next regular session, measures of importance, in connection with this branch of the public service, may be matured for your consideration.

Although the laws regulating the Post Office Department only require from the officer charged with its direction to report at the usual annual session of Congress, the Postmaster General has presented to me some facts connected with the financial condition of the Department which are deemed worthy the attention of Congress. By the accompanying report of that officer, it appears that the existing liabilities of that Department beyond the means of payment at its command, cannot be less than five hundred thousand dollars. As the laws organizing that branch of the public service confine the expenditure of its own revenues, deficiencies therein cannot be presented under the usual estimates for the expenses of Government. It must therefore be left to Congress to determine whether the moneys now due to contractors shall be paid from the public Treasury, or whether that department shall continue under its present embarrassments. It will be seen by the report of the Postmaster General, that the recent lettings of contracts in several of the States have been made at such reduced rates of compensation, as to encourage the belief that, if the department was relieved from existing difficulties, its future operations might be conducted without any further call upon the general Treasury.

The power of appointing to office is one of a character the most delicate and responsible. The appointing power is evermore exposed to be led into error. With anxious solicitude to select the most trustworthy for official station, I cannot be supposed to possess a personal knowledge of the qualifications of every applicant. I deem it therefore proper, in this most public manner, to invite, on the part of the Senate, a just scrutiny into the character and pretensions of every person whom I may bring to their notice in the regular form of a nomination for office. Unless persons every way trustworthy are employed in the public service, corruption and irregularity will inevitably follow. I shall, with the greatest cheerfulness, acquiesce in the decision of that body, and, regarding it as wisely constituted to aid the Executive department in the performance of this delicate duty, I shall look to its "consent and advice" as given only in furtherance of the best interests of the country. I shall also, at the earliest proper occasion, invite the attention of Congress to such measures as in my judgment will be best calculated to regulate and control the Executive power in reference to this vitally important subject.

I shall, also, at the proper season, invite your attention to the statutory enactments for the suppression of the slave-trade, which may require to be rendered more efficient in their provisions. There is reason to believe that the traffic is on the increase. Whether such increase is to be ascribed to the abolition of slave labor in the British possessions in our vicinity, and an attendant diminution in the supply of those articles which enter into the general consumption of the world, thereby augmenting the demand from other quarters, and thus calling for additional labor, it were needless to inquire. The highest considerations of public honor, as well as the strongest promptings of humanity, require a resort to the most vigorous efforts to suppress the trade.

In conclusion, I beg to invite your particular attention to the interests of this District. Nor do I doubt that, in a liberal spirit of legislation, you will



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seek to advance its commercial as well as its local interests. Should Congress deem it to be its duty to repeal the existing Sub-Treasury law, the necessity of providing a suitable place of deposit for the public moneys which may be required within the District must be apparent to all.

I have felt it to be due to the country to present the foregoing topics to your consideration and reflection. Others, with which it might not seem proper to trouble you at an extraordinary session, will be laid before you at a future day. I am happy in committing the important affairs of the country into your hands. The tendency of public sentiment, I am pleased to believe, is towards the adoption, in a spirit of union and harmony, of such measures as will fortify the public interests. To cherish such a tendency of public opinion is the task of an elevated patriotism. That differences of opinion as to the means of accomplishing these desirable objects should exist, is reasonably to be expected. Nor can all be made satisfied with any system of measures. But I flatter myself with the hope that the great body of the people will readily unite in support of those whose efforts spring from a disinterested desire to promote their happiness; to preserve the Federal and State Governments within their respective orbits; to cultivate peace with all the nations of the earth, on just and honorable grounds; to exact obedience to the laws; to intrench liberty and property in full security; and consulting the most rigid economy, to abolish all useless expenses.

JOHN TYLER.

WASHINGTON, June 1, 1841.

Mr. MANGUM moved that ten thousand copies of the President's Message—fifteen hundred of them with the documents—be printed, but subsequently modified his motion by calling for the printing of five thousand copies—fifteen hundred of them with the accompanying documents.

Mr. CLAY, of Kentucky, said he was very glad that the Senator from North Carolina had agreed to modify his motion by substituting five thousand copies, instead of ten. The smaller number would be quite sufficient, considering that the newspapers of the country would give the Message a wide circulation. He (Mr. C.) had not risen for the purpose alone of saying this, but he was glad to have an opportunity of expressing his satisfaction at this early prospect of paying attention to economy in matters of detail.

Mr. C. then made some allusions to the expenditures of 1838, in which he said a greater amount had been expended for contingencies than had been expended for the same purposes in the four years of Mr. Adams's administration.

Mr. CALHOUN said he was glad to hear such sentiments of economy expressed. He hoped this spirit of economy would be carried out in every department, and that it would be considered the circumstances of the country called for it. This economy might save the necessity of increased taxation. He, for one, would not consent to any increase until the most rigid economy was first tried, and after that it should be found necessary.

Mr. BUCHANAN said he was glad to find the

Senator from Kentucky so much in favor of economizing. He should ever find him (Mr. B.) ready to concur with him in all reasonable efforts to curb expenditures. Allusion had been made to the extravagant expenditure for stationery supplied to Congress. He had himself used, he believed, more of that stationery than any other member, with the exception, perhaps, of the Senator from New York. Much of it had been used in answer to applicants for office. That necessity no longer existed; that day had gone by, and he and the Senator from New York would economize in that particular. But, although he admitted he had used a greater quantity of stationery than any other Senator, with the exception before made, yet he believed the value of what he had used at any one session, never exceeded \$20. He thought some arrangement might be made by which each Senator and Member of Congress would be charged with the stationery supplied to him. He did not, however, intend to urge this at present, but merely threw out the suggestion.

## HOUSE OF REPRESENTATIVES.

TUESDAY, June 1.

*Rules and Orders.*

After the journal of yesterday had been read, the first business in order was the following resolution, offered by Mr. WISE on Monday evening:

*Resolved*, That the standing rules and orders of the last House of Representatives be adopted as the rules and orders of this House for the next ensuing ten days, and that a committee of nine members be appointed to revise said rules and orders, and to report thereon within the said ten days.

Which motion Mr. UNDERWOOD had moved to amend as follows:

Strike out all after the word "Resolved," and insert "That a committee of nine be appointed to revise, amend, and report rules for the government of this House; and that, until such committee make report, and the same be finally acted upon, the rules and orders of the last House of Representatives shall be considered as the rules and orders of this House."

Which motion Mr. ADAMS moved to amend by inserting after "House of Representatives" the words "excepting the 21st rule, which is hereby rescinded."

The 21st rule is as follows:

"No petition, memorial, resolution, or other paper praying the abolition of slavery in the District of Columbia or any State or Territory, or the slave-trade between the States and Territories of the United States in which it now exists, shall be received by this House, or entertained in any way whatever."

And the question being on this amendment,

Mr. WISE suggested the propriety of postponing the further consideration of the resolution for the present, in order that the House might

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respond to the courtesy of the Senate, etc., and more especially as the gentleman from Massachusetts, the mover of the amendment, was not then in his seat.

After some debate of a conversational character, in which Messrs. WISE, PICKENS, and MCKAY, participated,

Mr. ADAMS appeared and addressed the House at considerable length, in support of his amendment.

As regarded the proposition of the gentleman from Virginia (Mr. WISE) to adopt the rules of the last House until further order, he said he confessed he felt very indifferent. He had known this House long enough to be assured that it was of very little consequence what the rules were. The rule was, and would be, the will of the majority; that probably was the best of all. Heretofore, down to the last Congress, two-thirds were required to make an alteration in the rules; but now, he believed, a majority alone was sufficient to change all the rules. He was, therefore, indifferent as to what the House might do with its rules, with the single exception of the 21st rule, because, whatever rules might be adopted, they would always be suspended whenever there was a majority in favor of suspending them. And if the journals of the last House were consulted, he doubted whether it would be found that any one measure of the House had been adopted under the regular application of the rules.

Mr. A. here gave the results of his experience in relation to the *improvement* of the rules, by referring them to committees. He believed that a simple rule, providing that all the proceedings of this House should be according to the vote of the majority, would probably be better than the volume which we had compiled, and which it seemed was now to be further added to—and which, it seemed to him, did nothing but consume so much of the time of the House every day as was necessary to their suspension.

This 21st rule was passed on the 28th of January, 1840, and a majority of the House were well acquainted with the manner in which it passed. It passed when a majority of the then present members of the House were anxious above all things not to be thought Abolitionists, and most especially the members from the South. The members from the South were afraid that if they did not vote for this rule, they would be set down by their constituents as Abolitionists; and we remembered the somewhat strange, not to say edifying scenes which took place in this House under these mutual charges of Abolitionism.

It was necessary, in order to make political capital, for all the members from the South and all the members from the North, who were in the true political allegiance of that day, to prove that they were not Abolitionists; and finally, a gentleman certainly not an Abolitionist, but a Southern gentleman, a sound Whig, an influential member of the House—he might

say an *ultra* Whig, if any thing—contrived at that time to bring up this resolution; and *he* the Whiggest of the Whigs, upon the strength of the Kinderhook majority of the House, added this to the other rules. He did what Northern men with Southern principles never dared to propose before him. They had always struggled against that particular rule. They knew how odious it was; they knew how their constituents detested it; and they never were able to bring themselves to the screwing point until the matter was brought into this House by a Whig; and *then* it was carried. How carried? By 108 against 114, a majority of only six votes.

Mr. A. here requested the Clerk to send him the journal of the first session of the last Congress, from which he read for the purpose of showing what was the compound of that vote.

He then proceeded to say that he understood the Whigs themselves made great pretensions to be Democrats. Among other things, they were contesting that name with their rivals; and he had seen much in the newspapers about Whig Democracy. Well; the Whigs were at liberty to take what name they pleased. But at the time this rule was adopted, the Democrats were the party of the then existing Administration. The Whigs at that time founded themselves on the ground of sturdy opposition to Executive power. How far they *would be* Whigs in that respect, was a matter about which we should see more hereafter. But, from one vote given yesterday, he should apprehend that their opposition to Executive power was beginning to melt away something like ice in the dog days. If he might take that vote as a standard, he did not think that the Whigs would be so distinguished for their opposition to Executive power as they were a year ago. It might probably, therefore, be convenient for them to take the name of Democrats; and probably, in the change of things, the Democrats of last year would become Whigs. So far at least as Executive power went, he thought that was likely to be the case.

Mr. WISE said he did not rise for the purpose of debating the merits of the question, but to move that the resolution do, for the present, lie on the table; which motion was agreed to.

## IN SENATE.

WEDNESDAY, June 2.

*Respect for the Memory of the late President Harrison.*

The following joint resolution of the House was taken up:

*Resolved*, That a committee of one member from each State in the Union be appointed on the part of this House, to join such committee as may be appointed on the part of the Senate, to consider and report by what token of respect and affection it may be proper for the Congress of the United States to express the deep sensibility of the nation to the event

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of the decease of their late President, WILLIAM HENRY HARRISON; and that so much of the Message of the President as relates to that melancholy event be referred to the said committee.

On motion by Mr. BAYARD, the resolution was concurred in, and the committee on the part of the Senate ordered to consist of five persons.

The Senate then adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, June 2.

##### *Decease of the President.*

The names of the following gentlemen were announced by the Clerk, as the committee on the part of the House, in pursuance of the resolution adopted on yesterday, providing for the appointment of a committee, one member from each State in the Union, to join such committee as may be appointed on the part of the Senate, to consider and report by what token of respect and affection it may be proper for the Congress of the United States to express the deep sensibility of the nation to the event of the decease of their late President, William Henry Harrison, and that so much of the Message of the President as relates to that melancholy event be referred to that committee, viz:

Mr. J. Q. ADAMS, of Massachusetts.  
 Mr. FESSENDEN, of Maine.  
 Mr. TILLINGHAST, of Rhode Island.  
 Mr. ATHERTON, of New Hampshire.  
 Mr. THOS. W. WILLIAMS, of Connecticut.  
 Mr. HORACE EVERETT, of Vermont.  
 Mr. GREIG, of New York.  
 Mr. AYERES, of New Jersey.  
 Mr. SERGEANT, of Pennsylvania.  
 Mr. RODNEY, of Delaware.  
 Mr. W. O. JOHNSON, of Maryland.  
 Mr. TALLAFERRO, of Virginia.  
 Mr. LEWIS WILLIAMS, of North Carolina.  
 Mr. JOHN CAMPBELL, of South Carolina.  
 Mr. W. O. DAWSON, of Georgia.  
 Mr. POPE, of Kentucky.  
 Mr. AARON V. BROWN, of Tennessee.  
 Mr. SAMSON MASON, of Ohio.  
 Mr. E. D. WHITE, of Louisiana.  
 Mr. WALLACE, of Indiana.  
 Mr. JOHN MILLER, of Missouri.  
 Mr. CROSS, of Arkansas.  
 Mr. JACOB M. HOWARD, of Michigan.

##### *New Member.*

The Hon. JOHN B. DAWSON, member elect from the State of Louisiana, appeared, was qualified, and took his seat.

##### *Death of Hon. Charles Ogle.*

Mr. COOPER, of Pennsylvania, then announced the death of the Hon. CHARLES OGLE.

He died (said Mr. C.) at his residence in Somerset, on the 10th of May last, in the midst of those constituents of whom he was so proud, and who loved him so well. He had scarcely

attained the maturity of his intellect, when he was cut off in the midst of life. It might be said that he fell in the very spring of promise. But one brief year ago, he bade as fair for a long life as the youngest and strongest amongst us; but neither youth nor strength can shield from Death. The highest in place, for whom the profoundest respect of a nation may be expressed, is as liable to be smitten down by his merciless aim, as the poorest and humblest. Again sad experience has reminded us of this truth; and it would be wise if we should, by this, be taught a lesson of deep humility.

Mr. C. said it was not his purpose to deliver an eulogium on the life and character of his deceased colleague and friend. He would only say that those who knew him best esteemed him most, and that he was as much distinguished for his kindness and benevolence in private life, as for his ability and fidelity as a public man. With his bereaved family he deeply and sincerely sympathized. Their loss was irreparable. How should they be consoled? Words of condolence, he knew, fell without meaning on the ear of sorrow, and there is no comfort in them. But let us (said Mr. C.) trust that the benignity of Him who "tempers the wind to the shorn lamb," will not be less kind to the widow and orphan children of our deceased friend.

As a tribute of respect to his memory, and to show those to whom he was so dear that he is held in respectful and affectionate remembrance by us, with whom he was associated, I respectfully ask the concurrence of the House in the following resolutions:

*Resolved*, That the members of this House have heard with deep sensibility of the death of the Hon. CHARLES OGLE, late a Representative from the State of Pennsylvania.

*Resolved*, That as a testimonial of respect for the character of the deceased, they will wear the usual badge of mourning for the space of thirty days.

*Resolved*, That as a further testimonial of respect, the House will now adjourn, to meet at 11 o'clock to-morrow.

The resolutions were adopted; and then, at 80 minutes past 12 o'clock,  
 The House adjourned.

#### IN SENATE.

THURSDAY, June 3.

##### *Repeal of the Sub-Treasury Bill.*

Mr. CLAY offered the following resolution:

*Resolved*, That the act entitled "An act to provide for the collection, safe-keeping, transfer, and disbursement of the public revenue" ought to be forthwith repealed, and that the Committee on Finance be directed to report a bill to that effect.

Mr. CALHOUN proposed to amend it by adding the words "and to report a substitute."

Mr. CLAY hoped the amendment would not be made; and he called for the question.

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*Mr. Clay's Programme.*

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Mr. CALHOUN demanded the yeas and nays, which were ordered.

Mr. CLAY. The amendment proposes that the Finance Committee shall report a substitute for the Sub-Treasury; that is, it totally nullifies the Select Committee which the Senate appointed on the subject of finance and a fiscal agent of the Government.

Mr. WOODBURY suggested whether it would not be expedient to refer the pending resolution to the Select Committee instead of the Committee on Finance.

Mr. CLAY said that the Select Committee stood on special and peculiar ground, and the objects of its appointment did not embrace that of this resolution; if he thought that they did, he would with pleasure adopt the suggestion.

Mr. WALKER asked whether the subject was not already before the Select Committee, and whether the amendment would not defeat that reference?

Mr. CALHOUN said his object was to take the sense of the Senate, whether they intended to act separately on this subject without the other matters connected with it. There were three sets of opinions in the country—one for a National Bank, one for the pet banks, and one for the Sub-Treasury. The object of this resolution had been distinctly avowed; it was the establishment of a National Bank. The Sub-Treasury had just commenced its operations; why not give it a fair trial?

[Mr. CLAY, across. Because the people have condemned it.]

It is said there is a majority of the people opposed to it; and so, I believe, there is against the pet-bank system, and against a Bank of the United States. If the resolution was adopted, Mr. C. did not care to which committee it was referred.

Mr. WALKER preferred its reference to the Select Committee on the currency, &c.

The question was now put on Mr. CALHOUN's amendment, and decided by yeas and nays as follows:

YEAS.—Messrs. Allen, Benton, Buchanan, Calhoun, Clay of Alabama, Fulton, King, McRoberts, Nicholson, Pierce, Sevier, Smith of Connecticut, Sturgeon, Tappan, Walker, Williams, Woodbury, Wright, and Young—19.

NAYS.—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Henderson, Huntington, Ker, Mangum, Merrick, Miller, Morehead, Porter, Prentiss, Preston, Rives, Simmons, Smith of Indiana, Southard, Tallmadge, and Woodbridge—27.

The resolution of Mr. CLAY was then adopted as follows:

*Resolved*, That the Committee on Finance be directed to inquire into the expediency of repealing the act entitled "An act to provide for the collection, safe-keeping, transfer, and disbursement of the public revenues."

FRIDAY, June 4.

*Repeal of the Sub-Treasury Bill.*

Mr. CLAY said he was instructed by the Committee on Finance to report a bill for the repeal of the act commonly called the Sub-Treasury law. He would move that the reading of the bill be dispensed with, and that it would be ordered to its second reading to-day.

Mr. WRIGHT said he would prefer having the bill read, and felt bound to give notice that he would oppose its second reading to-day.

MONDAY, June 7.

*Election of Officers.*

The CHAIR called the attention of the Senate to the fact that this was the day designated by law for the Senate to elect its officers, and the Senate, in compliance therewith, proceeded to elect its Secretary.

The ballots having been counted, the following was declared to be the result:

Whole number of votes	-	-	48
For Mr. Dickens	-	-	41
Mr. Naudain	-	-	1
Blank	-	-	1

Mr. DICKENS was declared to be duly elected.

The Senate then proceeded to ballot for Sergeant-at-arms and Doorkeeper, and the ballots having been counted, Mr. DYKE was declared to be duly elected.

The Senate then proceeded to ballot for an Assistant Doorkeeper, and the votes having been counted, Mr. BEALE was declared to be duly elected.

The oath of office was then administered to the incumbents respectively.

*Mr. Clay's Programme.*

Mr. CLAY, of Kentucky, said, in compliance with suggestions thrown out at the last sitting of the Senate, he had framed some resolutions which he would submit for their consideration. The resolutions were sent to the table, and were read as follows:

*Resolved*, As the opinion of the Senate, that at the present session of Congress no business ought to be transacted but such as, being of an important or urgent nature, may be supposed to have influenced the extraordinary convention of Congress, or such as that the postponement of it might be materially detrimental to the public interests.

*Resolved, therefore*, As the opinion of the Senate, That the following subjects ought first, if not exclusively, to engage the deliberations of Congress at the present session, viz:

1. The repeal of the Sub-Treasury;
2. The incorporation of a bank adapted to the wants of the people, and of the Government;
3. The provision of an adequate revenue for the Government by the imposition of duties, and including an authority to contract a temporary loan to cover the public debt created by the last Administration;

4. The prospective distribution of the proceeds of the public lands;

5. The passage of necessary appropriation bills; and

6. Some modification of the banking system of the District of Columbia for the benefit of the people of the District.

*Resolved*, That it is expedient to distribute the business proper to be done at this session, between the Senate and House of Representatives, so as to avoid both Houses acting on the same subject at the same time.

Mr. CLAY said he did not desire the action of the Senate upon them at this time, but would ask that they might be printed, and laid upon the table; which was agreed to.

#### *Affection and Respect to the Memory of General Harrison.*

Mr. BAYARD, from the Select Committee to consider and report by what token of respect and affection it may be proper for the Congress of the United States to express the deep sensibility of the nation to the event of the decease of their late President, William Henry Harrison, made the following report:

The melancholy event of the death of WILLIAM HENRY HARRISON, the late President of the United States, having occurred during the recess of Congress, and the two Houses sharing in the general grief, and desiring to manifest their sensibility upon the occasion of that public bereavement; therefore,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the chairs of the President of the Senate and of the Speaker of the House of Representatives be shrouded in black during the residue of the session; and that the President *pro tem.* of the Senate, the Speaker of the House of Representatives, and the members and officers of both Houses, wear the usual badge of mourning for thirty days.

*Resolved*, That the President of the United States be requested to transmit a copy of these resolutions to Mrs. HARRISON, and to assure her of the profound respect of the two Houses of Congress for her person and character, and of their sincere condolence on the late afflicting dispensation of Providence.

The resolutions were read a first and second time by unanimous consent, and ordered to be engrossed for a third reading.

#### *Repeal of the Independent Treasury Bill.*

The bill reported yesterday from the Finance Committee, to repeal the Sub-Treasury law, having come up as the order of the day, it was read a second time; when

Mr. CLAY rose, and observed that he had only a word or two to offer by way of explanation on the provisions of the bill, and on the consequences which would result from its passage into a law.

The first section contained the repeal of the Sub-Treasury act. Should that repeal take place, the state of the Treasury, or rather the state of the finances of the country, would be this: it would be under the operation of the law of 1789 establishing the Treasury Depart-

ment; under the resolutions of 1816 as to the medium receivable in payment of the public dues; and under the law of 1836 establishing what was familiarly called the pet-bank system; (but this last law Mr. C. proposed by an amendment to repeal.)

The second section of the bill contained the re-enactment of one of the sections of the existing Sub-Treasury law, with a slight alteration, adapting its provisions to the present changed state of the country, and containing a new principle. Under the law as it before stood, embezzlement of the public money was made felony; but in its practical application a difficulty arose. A public officer neglected to pay over at the proper time the balance in his hands; a demand of the money was made by Government, and the officer refused; and the question arose whether, in such case, the officer could or could not be prosecuted for embezzlement? To obviate this difficulty hereafter, the present bill provided that the refusal of an officer under such demand shall be held to be *prima facie* evidence of embezzlement, and unless the individual shall be able clearly to show that the refusal was unaccompanied by any unlawful intent, he shall be subject to all the penalties provided in another part of the bill against those who embezzle the public property.

Mr. C. went on to observe that should the bill pass in its form as reported, the consequence would be the revival of the act of 1836, establishing the State bank system. He supposed, however, there was no disposition on any side of the House to revive that system—a system which had been found in practice so very inconvenient, and which would be now still more so from the changed circumstances of the country and of the banks. By that law the Secretary was prohibited from making any deposit of the public money in any bank which did not pay specie on demand, and also in any bank issuing promissory notes under the denomination of five dollars; a prohibition which, if enforced at this time, would exclude him from a large majority of the banks of the whole country. Mr. C. said he did not introduce a section repealing the act of 1836, because he cherished the confident hope that should the bill pass into a law, it would speedily be followed by another bill providing for a Bank of the United States, or for some competent fiscal agent, such as should furnish to the people that which, of all things, they now wanted most, a sound and uniform currency. It might, however, by possibility, happen, though he could scarcely anticipate such a thing as in the least likely to occur, that no such bill might be passed, or, at least, not for a month or six weeks perhaps, during which interval this law of 1836, coming up in revived force, might operate exceedingly to embarrass the Secretary of the Treasury in conducting the fiscal operations of the Government. With a view to avoid both contingencies, viz., either of no bill's passing, or of its passage being delayed, Mr. C. had prepar-

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ed an amendment to come in as a third section of the bill in the words following :

*And be it further enacted,* That all of the act entitled "An act to regulate the deposits of the public money," which passed on the 23d June, 1836, except the 18th and 14th sections thereof, and the act supplementary thereto, approved 4th July, 1836, entitled "An act supplementary to an act to regulate the deposits of the public money," passed 23d June, 1836, be, and the same are hereby, repealed : *Provided,* That this repeal shall not affect or impair any securities which may have been taken for the safe-keeping of the public moneys deposited with any of the banks in the said act mentioned, nor any remedies to enforce the said securities which have been, or may hereafter be, prosecuted.

By this section the whole of the act of 1836 would be repealed, save the two sections which provide for the deposit of the surplus funds in the Treasury with the several States; this provision, he presumed, was to be considered as of a permanent character, and not to be repealed.

The amendment having been read—

Mr. CALHOUN said that if he had rightly understood the object of the Senator in proposing this amendment, it was to get clear of certain difficulties and restraints imposed upon the Secretary, in consequence of changes which had taken place since the passage of the law of 1836. Certain banks which could at that time be made the depositories of the public money were, in consequence of these changes and of the prohibitions in the law, precluded at this time from being so used. If this was his object, he might get at it much more easily, by simply moving to repeal so much of the law as contained those prohibitions. The law had been passed under a thorough and general conviction that it was wrong to have the entire Treasury under absolute Executive control, and for the express purpose of taking the public money from under that control, and placing it under the guardianship of the law. But now it was proposed to undo all this, to retrace our steps, and repeal the law. And on what ground? Why, that in a few weeks a law would be passed establishing a Bank of the United States; so that, if that expectation should fail, and no such law should pass, then the entire public treasure would be left, as it was before the passage of the law of 1836, under the absolute disposal of the Executive!

[Here Mr. CLAY gave signs of dissent.]

The gentleman shakes his head. Under what control, then, will it be?

Mr. CLAY. Under the law of 1789.

Mr. CALHOUN. Well, I will go back most cheerfully to the law of 1789. If that is the meaning of the Senator, let him move an amendment, (or if not, I will do it,) declaring that the law of 1789 is hereby revived. It declared that the revenue shall be received in gold and silver only, and shall be kept by the Treasurer of the United States.

Mr. CLAY said he never had alluded to the subject of a metallic medium, or of any manner

in which the dues of the United States were to be paid. He had merely said that should the Sub-Treasury law be repealed, the country would be under the law of 1789, under the resolutions of 1816, and under the law of 1836, unless that should be repealed. What he meant to say was, that under the principles now revived, as to the powers of the President, the act of 1789 would operate as a complete security to the Treasury till a new law should be enacted.

Mr. CALHOUN said that, as to that, the law of 1789 was as much in force in 1836, when the law was passed to regulate the deposits, as it was now; and yet President Jackson himself admitted that the public money was left absolutely under Executive control, and that this state of things ought not to continue. Did gentlemen now propose at one blow to undo what it has cost such strenuous efforts and so much prolonged and excited discussion to agree upon? And on what ground? Simply because a part of the law of 1836 would, at this time, impose inconvenient and embarrassing restrictions. Well, if that was the case, why not simply repeal so much of the law as imposed these restrictions. If the Senator wanted to go back to the law of 1789, it was what Mr. C. himself earnestly desired. He was unwilling that the Treasury should for a single day be under any control but that of law. If the Senator will not go back to the law of '89, and reinstate it in its full force and effect, he (Mr. CALHOUN) hoped the act of '86 would be left uninterrupted until a better substitute should be adopted. But his object now was to record his objections to the amendment as proposed; and with this view he demanded the yeas and nays.

And they were ordered by the Senate.

Mr. CALHOUN would move to amend the amendment, by striking out all but the enacting words, and inserting as a substitute the following :

"That so much of the 5th section of the act of 23d June, 1836, as provides that no bank shall be selected or continued as a place of deposit of the public money, which shall, after the 4th of July, 1836, issue or pay out any note or bill of a less denomination than \$5; and that no notes or bills of any bank be received in payment of any debt due to the United States which shall, after the said 4th of July, 1836, issue any note or bill of a less denomination than \$5, be, and the same is hereby, repealed."

Mr. RIVES addressed the Senate. The effect of the amendment proposed by the Senator from Kentucky would be to nullify, to a great extent, the action of the Senate. The Sub-Treasury law had in it two features peculiarly odious. One was the requirement to collect the revenue in gold and silver, and the other to place the money thus collected in the custody of Executive agents. But was not the effect of the amendment of the Senator from Kentucky to re-establish the Sub-Treasury law, at least in one of those odious features? It gave the per-

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sonal custody of the public treasure to Executive officers. Mr. R. here reverted to the objections which had been urged against this state of things after the removal of the deposits, and previous to the passage of the law of 1836. The law of 1789 was as much in force then as now. And where did it place the public treasure? In the custody of the Treasurer of the United States. And who was he? An Executive officer, removable at the pleasure of the President of the United States, and exercising the privilege of selecting, according to his own discretion, the depositories where the moneys were to be placed, and when so placed, they were held to be, constructively, in the custody of the Treasury itself. And what guarantee had the country for the safe-keeping of funds so disposed of? None but the Treasurer's bond of \$150,000. Who could consider the public funds safe under such a security? If this state of things must recur, surely there would at least be needed a stronger security than this.

Mr. R. insisted that the proper course at this time was simply to repeal the Sub-Treasury law, and then stop till they could agree upon some one of the several substitutes which had been suggested. Of these, there were at least three to choose out of: first, the State banks; secondly, a Bank of the United States on the old plan; or, lastly, a new fiscal agent. For his own part, he believed that the people of the United States would even prefer to see the public moneys kept in the State banks, provided they were restricted to such as paid specie, to having them put under the discretion of the Executive. There were many banks which still continued to redeem their notes. The Senator from Kentucky seemed to desire not only to put down the Sub-Treasury law, but by the same blow to prostrate the State banks, and any other fiscal agent; so that nothing should remain to be adopted but a Bank of the United States. He hoped the Senator would consent to adopt the amendment proposed by the Senator from South Carolina, and surrender the measure he had proposed, and to which there were so many serious objections.

Mr. FRAXTON said that the only real question was one of time. All agreed that it was proper the public treasure should not be left without the control of law: and there was but little difference as to a further step, viz: whether it should not be put under further control than by the law of 1789; for it had been conceded in the discussions of 1816, that the state of the public moneys was not safe, though they were still under the law of 1789. He presumed that if, whether then or now, it was proposed to re-enact the naked law of 1789, there would be a general if not universal objection to it. The general direction to a Treasurer to receive and keep the public money was not a sufficient separation of it from Executive control, so long as that officer might himself be removed by

the President. The law of 1836 had passed by an unusually large majority: it was passed in response to calls from the Executive: and though not intended as a permanent provision on the subject, it was at least better than the law of 1789. Acting on the principles then avowed, we should proceed with great caution. None of those on his side of the House intended to leave the public treasure without the guardianship of law. Yet they ought to move cautiously and scrupulously. Not that he believed the State bank system had had a full and fair experiment. No system could have done otherwise than fail under such auspices. Yet he did not concur with his friend from North Carolina, that the public funds should remain under Executive control for any time at all. He thought they ought not to remove one restraint till they imposed another in its place: they should not untie the Executive hands till they had another cord to bind them. He concurred with those who desired the repeal of the Sub-Treasury law. He had always been opposed to it. He had thought it better to abide under the law of 1836, than to rush into an untried and doubtful experiment. He thought so still; and would rather go back to that law with all its imperfections on its head, than confer on the Executive the discretionary control of the public moneys for any period, however brief. It seemed to be demanded, by the voice of the nation, that the Sub-Treasury be repealed. He concurred with that voice; and though he should, for himself, have preferred a repeal only of the specie clause, leaving the residue of the machinery untouched, he submitted to the expression of the public will. He hoped the amendment proposed by the Senator from Kentucky would not be insisted on.

Mr. CALHOUN said that it seemed to him that the Senator from Kentucky was on the high road towards proving that the Sub-Treasury law should not be repealed. If it was, either the Treasury must be left unregulated altogether, or the law regulating it would be so full of embarrassments that it could not get along. The argument amounted to this: that the Sub-Treasury should be left to stand till a substitute was agreed upon. He (Mr. C.) did not think the Senator from Kentucky had done General Jackson justice in his account of the removal of the deposits. General Jackson did not recommend their removal in the face of the law, but on the ground that there was no law which obliged him to continue them in the Bank. The Senator from Kentucky was not correct in his facts when he said that the banks throughout four-fifths of the country were non-specie paying. The banks in South Carolina paid specie, so did others in various Southern States.

Mr. CLAY. Oh, well, there may be exceptions, I admit. What I mean is the general prostration of the State banks.

Mr. CALHOUN. But did the Senator mean

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that the Secretary should make his deposits in banks which did not redeem their notes? Was that the object of his amendment? If it was, let it be avowed—let the country understand it; if it was, Mr. C. should be utterly and irreconcilably opposed to it. As the difficulty arose wholly from the condition of the banks, it might be fully met by repealing the objectionable clause in the law. It was said, indeed, that there were other difficulties in other sections of it; if so, let them be pointed out and removed, and let the law stand as if the banks had not suspended.

The amendment of Mr. CALHOUN was adopted, yeas 25, nays 22.

And the amendment as amended was rejected, yeas 19 nays 29.

## HOUSE OF REPRESENTATIVES.

MONDAY, JUNE 7.

The Hon. REUBEN CHAPMAN, of Alabama, appeared, was qualified, and took his seat.

The Hon. H. W. BRIDSON, Representative elect from the State of Pennsylvania, vice Hon. ENOS HOOK, resigned, appeared, was qualified, and took his seat.

## IN SENATE.

TUESDAY, JUNE 8.

*Repeal of the Independent Treasury.*

Mr. CLAY said that the effect of the last vote was to leave the bill in the form in which it had been reported. If it should in this form pass both Houses of Congress, and become a law, the State bank system, as regulated in 1836, would be revived, and continue in force until a substitute should be adopted by Congress. He took it for granted that a substitute of some description would pass; but if, unfortunately, Congress should be unable to agree upon any substitute, whether in the form of a bank or other fiscal agent, then he presumed that Congress would set about discharging the duty of rendering the State bank system as efficient and perfect as possible. After the gallant course pursued by the honorable Senator from Mississippi, (Mr. WALKER,) he considered it as proper for him, also, to state that he would vote for that system under no circumstances—none whatever—none. He had ever been opposed to the plan, and would not have given his vote for the law of 1836, on any other ground than that that law contained the principle of a distribution of the surplus fund among the States. No, if gentlemen on the other side choose to array themselves under the banners of such a miserable fleet, he did not care under what Commodore, he and his friends were ready to meet them upon any sea, and he doubted not that the encounter would result in such a victory as Perry had achieved on one of our great lakes, or the brave McDonough on another.

Mr. CALHOUN would say to the Senator from Kentucky, that he was fighting against an imaginary flag, if he supposed that the gentlemen on that side of the House meant to contend for the State bank system. No. They intended to go into battle under the noble flag of the Constitutional Treasury. He was glad that the Senator had been compelled to say, that if the Sub-Treasury should be repealed, the law of 1836 would be enforced. If that law as it now stood, should in practice be found impracticable, the difficulty would fall chiefly on the South and South-west.

Mr. CLAY said he had never doubted that the law of 1836 would revive; but, when he had introduced his bill to repeal the Sub-Treasury, he had given notice that that was the first in a series, and had avowed openly, his preference for a Bank of the United States. If, then, the law of 1836 did revive in its present form, he hoped it would be but for a very short time. But, if otherwise, it must undergo a complete revision.

The bill was further slightly amended, on motion of Mr. HENDERSON.

The amendments were then concurred in by the Senate, and the bill ordered to be engrossed, by yeas and nays, as follows:

YEAS.—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Buchanan, Choate, Clay of Ky., Clayton, Dixon, Evans, Graham, Henderson, Huntington, Ker, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Prentiss, Preston, Rives, Simmons, Smith of Indiana, Southard, Tallmadge, White, Woodbridge—80.

NAYS.—Messrs. Allen, Benton, Calhoun, Clay of Ala., Fulton, King, Nicholson, Pierce, Sevier, Smith of Con., Tappan, Walker, Williams, Woodbury, Wright, Young—16.

It was then, on motion of Mr. WRIGHT, ordered to be printed.

And the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, JUNE 9.

*Election of Doorkeeper and Postmaster.*

The House now, in pursuance of the special order, proceeded to an election, *visa voce*, for Doorkeeper, Assistant Doorkeeper, and Postmaster.

Mr. Folansbee, having received a majority of all the votes given, was declared duly elected Doorkeeper, and was qualified by taking the usual oath.

The House then voted for Assistant Doorkeeper, when

Mr. Hunter having received the highest number of all the votes given, was declared duly elected Assistant Doorkeeper, and was qualified by taking the usual oath.

On motion of Mr. MORGAN, Mr. W. J. McCormick was unanimously declared Postmaster for the present Congress.

The House now proceeded to an election for Chaplain.



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*Plan of a Fiscal Bank of the United States.*

[27TH CONG.]

The Rev. J. W. French, having received a majority of all the votes given, was declared duly elected Chaplain for the present session of Congress.

## IN SENATE.

FRIDAY, June 11.

*Plan of a Fiscal Bank of the United States.*

The CHAIR then submitted the following communication from the Secretary of the Treasury.

TREASURY DEPARTMENT,  
June 12, 1841.

*To the President of the Senate of the United States:*

SIR: In obedience to the direction of the Senate, contained in their resolution of the 7th instant, the Secretary of the Treasury has prepared, and herewith submits, a plan of a Bank and Fiscal Agent.

In the general plan and frame of said institution, he has endeavored to free it from the constitutional objections which have been urged against those heretofore created by Congress, and as far as practicable, without impairing its usefulness, to guard it in its details against the abuses to which such institutions are liable. And he now respectfully submits it to the Senate with the hope that, in the process of consideration and enactment, it may become, what he did not presume to promise, but which he earnestly desires to see in the possession of the nation, a Bank and Fiscal Agent, free from constitutional objections, and adapted to the wants of the country and convenience of the Government.

It is proposed to incorporate a Bank in the District of Columbia, by the name of the Fiscal Bank of the United States, having a capital of thirty million dollars, with power to establish branches or offices of discount and deposit in the several States, with the assent of the States; that the Government subscribe one-fifth part of the capital; and on the supposition that it is the purpose of Congress hereafter to direct that the fourth instalment, appropriated by the deposit act of June 23d, 1836, shall be paid into the treasuries of the several States, it is also proposed that a subscription to that amount be made in the name of the United States, for the use of the States respectively; the stock to be assigned to, and become the property of, such States as shall accept the same, in the manner and in the proportions, and subject to all the conditions provided and imposed by that act.

And for the amount of the six millions to be subscribed by the United States on their own account, and also for the amount to be subscribed for the use of the several States, it is proposed that a stock be created, bearing an interest of five per cent. per annum, redeemable at the pleasure of the Government at any time after fifteen years.

In case Congress should not see fit to make such a provision as is proposed for paying to the States the fourth instalment under the deposit act, it may be well worth while to consider whether the States might not be permitted to take the stock of the Bank according to their respective amount of population, to the extent of ten millions in all, issuing therefor stock of their own, bearing such interest, and reimbursable at such periods as might

be prescribed; the dividends on the shares thus held by the States, respectively, to be applied, in the first place, to the payment of the interest on their stocks; with a further provision, if thought necessary, that, in case the proceeds of the public lands should be assigned to the States, those proceeds should be applied to the reimbursement of the principal of their debts, or stocks, created or issued for the purposes aforesaid.

In the opinion of the Secretary, it is desirable that the States should be permitted to take an interest in one of the foregoing modes, or some other mode, in the new institution; but, if Congress should think otherwise, then it is recommended that the Government of the United States subscribe for ten millions of stock, leaving twenty to be subscribed by individuals.

It is proposed that the affairs of the Bank be managed by seven directors, two of them to be appointed by the President, by and with the advice and consent of the Senate, and five to be elected by the stockholders, at their annual meeting. A president to be chosen by the directors out of their own body.

That the branches be managed by not more than seven, nor less than five directors, two of them to be appointed by the States in which the branches may be situated, if such State be a stockholder, and the rest to be appointed by the directors of the Bank.

It is proposed that the Bank be the fiscal agent of the Government. That the public moneys be deposited in it; and when there, that they be deemed and taken to be in the Treasury of the United States, and that the deposits be not removed except by law, and that the notes of the said Bank be receivable in the payment of public dues, and that payments made by the Treasurer of the United States may be by checks on said Bank.

That the said Bank receive the funds of the United States; that it transmit them from one part of the Union to another, and distribute them for the payment of public creditors, and perform the duty of pension agent free of charge.

The ordinary power and privileges of banking institutions being conferred upon it, and the ordinary liabilities and duties imposed in order to prevent over-banking, excessive issues, fluctuations in the price of stocks and consequent speculations therein, and to secure the bill holders and other creditors of the Bank from danger of loss, it is proposed—

To limit the dividends to six per cent. per annum, but if they fall short in any year, the deficiency, with interest thereon, to be afterwards made good—and when a surplus accumulates, exceeding two millions, the excess to be passed to the credit of the Treasurer of the United States.

That the amount of debts which it may at any time owe, shall not exceed twenty millions over and above its deposits. That the debts at any time due to the bank shall not exceed the amount of its capital and seventy-five per cent. thereon; and that when the amount of its bills in circulation shall exceed three times the amount of specie in its vaults, no new loan shall be made.

That it shall not deal in any thing except coin, bullion, promissory notes, and inland bills of exchange.

That it shall take no more than six per cent. upon loans.

That it shall discount no promissory note, and pur-

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Election of Printer.

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chase no bill of exchange which has more than one hundred and eighty days to run, or make any loan for a longer time.

That no debt shall be renewed.

That it shall not at any time loan the United States more than three millions of dollars, nor any State more than 100,000 dollars, nor either for a longer time than one hundred days, unless authorized by law.

That it shall contract no debt for a longer time than one year.

That it shall issue no note of a less denomination than ten dollars.

That the officers of the institution shall not be permitted to borrow money from, or contract any debt therein, in any manner whatever; a note or bill of which such officer, as maker, drawer, endorser, or acceptor, is forbidden to be discounted. The directors of the branches not to be considered officers within the meaning of this provision.

To prevent or expose any fraud or indirection in the management of the institution; to prevent, also, large and improper loans to individuals, to the injury of the stockholders and the public, and to prevent, likewise, false imputations when such irregularities do not exist, it is proposed that the books of the institution, including the accounts of all individuals therein, be at all times open to the inspection of the Secretary of the Treasury of the United States; to a committee of either House of Congress; to each of the directors of the Bank, and to a committee of the stockholders, with power to make public whatsoever they think fit.

It is proposed to provide that the branches shall not issue notes or bills adapted to, and intended for, circulation; but may sell drafts, not less in amount than fifty dollars, for the purpose of transmission and exchange.

That the Bank shall not suspend specie-payment—that it shall not pay out any thing but coin or bullion or its own notes. That its existence as a corporation continue for twenty years—but that it be allowed to use its corporate name for two years longer in settling up its affairs.

That no other bank be established by Congress during the existence of the charter.

And providing that it shall not be deemed an infringement of the privileges granted by the charter, if Congress shall order the said corporation to place offices of discount and deposit wherever the same may be necessary for the collection, safe-keeping, and disbursement of the public revenue.

All which is respectfully submitted.

T. EWING,  
*Secretary of the Treasury.*

On motion of Mr. CLAY, of Kentucky, the report and accompanying bill was referred to the Select Committee on the subject, and 1,500 additional copies ordered to be printed.

The bill to distribute the proceeds of the sales of the public lands among the several States, was read a second time, and referred to the Committee on the Public Lands.

#### *Election of Chaplain.*

The Senate then proceeded to the election of a Chaplain; and

The Rev. SEPTIMUS TUSTIN was elected.

The Senate then adjourned.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, JUNE 12.

Mr. CHAPMAN, of Alabama, introduced his colleague Wm. W. PAYNE, who was duly qualified and took his seat.

#### *Repeal of the Independent Treasury Law.*

Mr. GRAHAM, in pursuance of notice heretofore given, asked leave to introduce a bill to repeal an act entitled "An act to provide for the safe-keeping, transfer, and disbursement of the public revenue"—known as the Independent Treasury Law.

Objection being made,

Mr. GRAHAM moved a suspension of the rules prescribing the order of business.

Mr. PROCKEN said that a bill had been sent from the Senate to the House on the same subject, and with the same title. He saw no reason for bringing it forward at this time, while there was already a similar bill upon the SPEAKER's table.

The question was then taken on the motion to suspend the rules, and decided in the negative—yeas 56, nays 132.

#### *General Bankrupt Law.*

Mr. BRIGGS, of Massachusetts, presented a petition praying for a general bankrupt law. Mr. B. moved that it be referred to the Committee on the Judiciary, with instructions to inquire into the expediency of reporting a general bankrupt law at the present session of Congress.

Mr. ANDREWS moved to lay the petition, with instructions, on the table, and thereupon called for the yeas and nays; which were ordered, but he subsequently withdrew his motion.

Mr. ATHERTON demanded a division of the question.

The question was then taken on the first branch, viz., on referring the petition to the Judiciary Committee, and it was agreed to.

The question then being put on the second branch, viz., on instructing the committee to consider the expediency of reporting a bill, it was also decided in the affirmative—yeas 98, nays 89.

IN SENATE.

MONDAY, JUNE 14.

Mr. MOUTON appeared in his place in the Senate this morning.

TUESDAY, JUNE 15.

#### *Election of Printer.*

Mr. DIXON asked that the resolution submitted by him, some days since, in relation to the election of Printer, should be taken up; which was agreed to; and the resolution was read as follows:

*Resolved*, That the Senate will on Thursday next proceed to the election of Printer; the price to be

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paid to be the same as under the resolution of 1819, deducting 20 per cent. therefrom.

Mr. D. then modified his resolution by substituting "now" for "on Thursday next."

The Senate then proceeded to the third ballot, and the following was declared to be the result:

Whole number	-	-	-	27
Thomas Allen	-	-	-	25
Mr. Allen	-	-	-	2

So Thomas Allen, having a majority of the whole number of the votes, was declared to be duly elected.

## HOUSE OF REPRESENTATIVES.

THURSDAY, June 18.

*Family of the late President.*

On motion of Mr. ADAMS, the House resolved itself into a Committee of the Whole on the state of the Union, (Mr. TALIAFERRO, of Virginia, in the chair,) on the bill for the relief of the widow of the late William Henry Harrison; which was read, as follows:

A BILL for the relief of Mrs. Harrison, widow of the late President of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury pay, out of any money in the Treasury not otherwise appropriated, to Mrs. Harrison, widow of William Henry Harrison, late President of the United States, or in the event of her death before payment, then to the legal representatives of the said Wm. Henry Harrison, the sum of —.

The bill having been read at the Clerk's table—

Mr. ADAMS moved to fill the blank in the bill with the sum of \$25,000.

Mr. A. said that this sum, as far as he understood, was in correspondence with the prevailing sentiment of the joint committee raised on this subject, and of which the gentleman now in the chair had been a member. There had been some difference of opinion among the members of the committee as to the sum which it would be proper to appropriate, and, also, on the part of one or two gentlemen, as to the constitutionality of the act itself in any shape. There had been more objection to the constitutionality than there had been as to the sum proposed. So far as there had been any discussion in the committee, it seemed to be the general sense of those composing it, that some provision ought to be made for the family of the late President, not in the nature of a grant, but as an indemnity for actual expenses incurred by himself first, when a candidate for the Presidency. It had been observed in the committee, and it must be known to all members of the House, that, in the situation in which Gen. Harrison had been placed—far from the seat of Government, and for eighteen months or two years, while a candidate for the Presidency, exposed to a heavy burden of expense

which he could not possibly avoid—it was no more than equitable that he should, to a reasonable degree, be indemnified. He had been thus burdened while in circumstances not opulent; but, on the contrary, it had been one ground on which he had received so decided a proof of the people's favor, that through a long course of public service he remained poor, which was in itself a demonstrative proof that he had remained pure also. Such had been his condition before leaving home to travel to the seat of Government. After his arrival here, he had been exposed to another considerable burden of expense, far beyond any amount he had received from the public purse during the short month he had continued to be President. His decease had left his family in circumstances, which would be much improved by this act of justice done to him by the people, through their Representatives. The feeling was believed to be very general throughout the country, and without distinction of party, in favor of such a measure. Applications had come from the most respectable sources, and, among others, from the city of Charleston, a portion of the country where the support given to Gen. Harrison as a political candidate had not been so strong as in many others: with a magnanimity which that city had often manifested, its citizens had come forward and petitioned Congress that this sum should be appropriated as an indemnity. There had, he believed, been other petitions of the same character offered during this session. He would thank the Clerk to state whether such had not been the case.

The Clerk, through the Chair, responded to the inquiry, and stated that there had.

Mr. A. said that a gentleman from Pennsylvania, near him, had just suggested that he had in his hands a petition praying for a much larger grant than that he had moved, and which he would read when he came to speak to the resolution. The reason why Mr. A. had moved to insert this sum was, that, as far as he could understand what the public opinion was, this was the sum which was preferred by a great portion of the American people. A larger or smaller sum might be proposed; in which case the question by usage of the House would first be put on the largest sum.

The grounds and reasons for this appropriation had been so long and so fully discussed in the papers and journals of the country, that he presumed the minds of all the members of the House were made up in regard to it; he should not, therefore, add any further remarks.

Mr. GORDON, of New York, moved to fill the blank in the resolution with the sum of \$6,250.

Mr. DEAN, of Ohio, said he was opposed to voting any sum whatever. There was something so extraordinary in the proposition, that the moment he heard it he was startled at the views of the ruling party. Congress had been convened for an extraordinary purpose, but was it for the purpose of granting relief to the heirs of General Harrison? Was it for a pur-

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pose like this that the country had called upon them to assemble? Was this to be the first measure proposed for their public action? Mr. D. said he had no disposition to speak here of the acts of the deceased; he did not at this time desire to review the history of that man; he was willing that in his case the usual fate of men should be reversed. Let the evils he had done be buried with his bones, and let the good only which he had done for his country live after him. Mr. D. should set that all aside, until some gentleman should get up and attempt to express a eulogy upon the valor, patriotism, and public worth of William Henry Harrison; should any thing like this be attempted, Mr. D. should then claim the right of expressing his views as to the merits of that man as a distinguished and illustrious patriot. In the meanwhile, he had serious objections to this bill, and such as came home to his bosom. The passage of any such act was barred by the principles of this Government and the restrictions of the constitution. That instrument vested them with no authority to throw away the treasure of the country. By which of its clauses was Congress empowered to give away the public money gratuitously? He cared nothing for precedents. It was said that Congress had made a still larger grant to Lafayette: but Mr. D. never could find any sound reason or constitutional principle which justified them in conferring a gratuity upon any man. He was opposed to all gratuities. They had come here, as it was alleged, to relieve the distress of the country. Yes; this "distress of the country" had been rung in the ears of the people from Georgia to the Lakes. Nothing was heard from a certain set of politicians but public distress and impending ruin; and there must be a called meeting of Congress to seek out some mode to allay the distress. Now, Mr. D. must say that in his section of country there was no distress and no ruin; there was no derangement of the currency but such as was beyond the action of this House to remedy. Mr. D. was no believer in these distresses of the dear people. There was no distress in his district, and he had come here, not to make gratuities, but to discharge his constitutional duties according to the will of his constituents. It was not their will that any such bill as this should pass.

On motion, the committee rose,  
And the House adjourned

FRIDAY, June 18.

*The Family of the Late President.*

On the motion of Mr. ADAMS, the House again resolved itself into a Committee of the Whole on the state of the Union, (Mr. TALLAMORE in the chair,) on the bill for the relief of Mrs. Harrison, widow of the late President of the United States, William Henry Harrison.

The proposition of Mr. ADAMS was to fill the blank with \$25,000.

Which motion Mr. GORDON, of New York, had heretofore moved to amend, by striking out \$25,000, and inserting \$6,250.

Mr. GILMER, of Virginia, was entitled to the floor, and had risen to address the committee, when.

Mr. ADAMS asked his permission to make a statement. Some inquiry had been made yesterday whether the late President had received any portion of his salary, inasmuch as some gentlemen were of opinion that, in that case, the amount so drawn should be deducted from the amount in the bill. Mr. A. had inquired in the proper quarter, and had ascertained that President Harrison, at the time of his death, had not drawn a dollar of the salary. The usual practice was for the President to draw monthly, but just a month had expired, and he died at the time the draft would have been made.

Mr. DAWSON inquired if there was any law which regulated the manner in which the salary should be drawn?

Mr. ADAMS said he knew of none: the usual practice had been to draw for the President's salary by monthly instalments.

Mr. GILMER now took the floor, and observed that when he had yesterday moved for the rising of the committee, he had not proposed to himself to occupy much of the time of the House in debate, nor was such his purpose at present. With every disposition to vote for this bill, he had then felt, and he still felt, himself unable to give it his sanction, and that for reasons which had been advanced by many of the advocates in its favor. This was not a place to indulge feeling and sympathy: if it were, he presumed there would be but one sentiment throughout that House and throughout the country, and that would be in favor of the bill. If this were an act of generosity, if the object were to vote a bounty, a gratuity, to the widow or relatives of the late President, it seemed to Mr. G. that they ought not to vote it in the representative capacity, out of the public funds, but privately from their own personal resources. They had no right to be generous with the money of the people. Gentlemen might bestow as much out of their own purses as they pleased; but they were here as trustees for the property of others, and no public agent was at liberty to disregard the trust confided to him under the theory of our Government. It was quite needless here to attempt a eulogy on the character of the illustrious dead: history has done, and would hereafter do, ample justice to the civil and military character of William Henry Harrison. The result of the recent election, a result unparalleled in the annals of this country, spoke the sentiment of the nation in regard to his merits, while the drapery of death which shrouded the legislative halls, the general gloom which overspread the nation, spoke that sentiment in accents mournfully impressive. But those rhapsodies in which gentlemen had indulged, might, he

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thought, better be deferred for some fourth of July oration, or at least reserved for other theatres than this. They had come up here not to be generous, but to be just. His object now was to inquire whether they could not place this bill on the basis of indisputable justice, so that it might not be carried by a mere partial vote, but might conciliate the support of gentlemen of all parties, and from every quarter of the Union. He wished, if possible, to see the whole House united, so as to give to their act the undivided weight of public sentiment. Mr. G. said he could not bow to the authority of precedent; he should ever act under the light of the circumstances which surrounded him. His wish was, not to furnish an evil precedent to others by his example. He thought the House in some danger of setting one of that character; a precedent which might hereafter be strained and tortured to apply to cases of a very different kind, and objects of a widely different character. He called upon the advocates of the bill to enable all the members of the House, or as nearly all as was practicable, (for, after what had transpired yesterday, he confessed his despair of seeing the House entirely united,) to agree in voting for the bill.

The House concurred with the committee.

And the question being on ordering the bill to be engrossed for a third reading,

Mr. WILLIAMS, of Maryland, moved its recommitment, with instructions to strike out \$25,000, and insert one quarter's salary.

Mr. FILLMORE moved the previous question, and there was a second.

[This cut off the motion to recommit, and brought the House directly to a vote on the passage of the bill.]

And (after some conversation) the main question was ordered to be taken.

Mr. WELLER asked the yeas and nays; which were ordered.

And the main question "Shall this bill pass?" was taken and decided in the affirmative—yeas 122, nays 66.

So the bill was passed.

SATURDAY, JUNE 19.

#### *National Bank.*

Mr. HUNT, of New York, offered the following resolution:

*Resolved,* That the Select Committee on the Currency be directed to inquire into the expediency of establishing a National Bank on the following plan.

Objections were made, and the reading of the plan accompanying the resolution was called for and objected to.

Mr. GILMER moved to lay the resolution, etc., on the table.

IN SENATE.

MONDAY, JUNE 21.

#### *Fiscal Bank of the United States.*

Mr. CLAY, of Kentucky, from the Select Committee on the Currency, reported a bill to incorporate the subscribers to the Fiscal Bank of the United States, and said he was instructed to make a written report. He moved that the bill have its first reading by its title, that it be made the order of the day for Wednesday next, and that the bill and report be printed, with fifteen hundred extra copies, for the use of the Senate.

Several Senators having desired that the report might be read—

Mr. CLAY said as it was principally in his handwriting, with the leave of the Senate, he would read it himself.

#### *Mrs. Harrison's Bill.*

The bill appropriating \$25,000 for the relief of the widow of General William Henry Harrison, was taken up as in Committee of the Whole.

After some explanatory remarks by Mr. BAYARD, in reply to an inquiry by Mr. YOUNG,

Mr. BENTON said he was opposed to this bill—opposed to it on high constitutional grounds, and upon grounds of high national policy—and would not suffer it to be carried through the Senate without making the resistance to it which ought to be made against a new, dangerous, and unconstitutional measure.

It was a bill to make a grant of money—twenty-five thousand dollars—out of the common Treasury, to the widow of a gentleman who had died in a civil office, that of President of the United States; and was the commencement of that system of civil pensions and support for families which, in the language of Mr. Jefferson, has divided England, and other European countries, into two classes—the tax payers and the tax consumers—and which sends the laboring man supperless to bed.

It is a new case—the first of the kind upon our statute book—and should have been accompanied by a report from a committee, or preceded by a preamble to the bill, or interjected with a declaration, showing the reason for which this grant is made. It is a new case, and should have carried its justification along with it. But nothing of this is done. There is no report from a committee—from the two committees in fact—which sat upon the case. There is no preamble to it, setting forth the reason for the grant. There is no declaration in the body of the bill, showing the reason why this money is voted to this lady. It is simply a bill granting to Mrs. Harrison, widow of William H. Harrison, late President of the United States, the sum of \$25,000. Now, all this is wrong, and contrary to parliamentary practice. Reason tells us there should be a report from a committee in such a case. In fact, we have reports every day in every case, no

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matter how inconsiderable, which even pays a small sum of money to an individual. It is our daily practice, and yet two committees have shrunk from that practice in this new and important case. They would not make a report, though urged to do it. I speak advisedly, for I was of the committee, and know what was done. No report could be obtained; and why? because it was difficult, if not impossible, for any committee to agree upon a reason which would satisfy the constitution, and satisfy public policy, for making this grant. Gentlemen could agree to give the money—they could agree to vote—but they could not agree upon the reason which was to be left upon the record as a justification for the gift and the vote. Being no report, the necessity became apparent for a preamble; but we have none of that. And, worse than all, in the absence of report and preamble, the bill itself is silent on the motive of the grant. It does not contain the usual clause in money bills to individuals, stating, in a few words, for what reason the grant or payment is made. All this is wrong; and I point it out now, both as an argument against the bill, and as a reason for having it recommitting, and returned with a report, or a preamble, or a declaratory clause.

We were told at the last session that a new set of books were to be opened—that the new Administration would close up the old books, and open new ones; and truly we find it to be the case. New books of all kinds are opened, as foreign to the constitution and policy of the country, as they are to the former practice of the Government, and to the late professions of these new patriots. Many new books are opened, some by Executive and some by Legislative authority; and among them is this portentous volume of civil pensions, and national recompenses, for the support of families. Military pensions we have always had, and they are founded upon a principle which the mind can understand, the tongue can tell, the constitution can recognize, and public policy can approve. They are founded upon the principle of personal danger and suffering in the cause of the country—upon the loss of life or limb in war. This is reasonable. The man who goes forth, in his country's cause, to be shot at for seven dollars a month, or for forty dollars a month, or even for one or two hundred, and gets his head or his limbs knocked off, is in a very different case from him who serves the same country at a desk or a table, with a quill or a book in his hand, who may quit his place when he sees the enemy coming, and has no occasion to die except in his tranquil and peaceful bed. The case of the two classes is wholly different, and thus far the laws of our country have recognized and maintained the difference. Military pensions have been granted from the foundation of the Government—civil pensions, never; and now, for the first time, the attempt is to be made to grant them. A grant of money is to be made to the widow of a gentleman who

has not been in the army for near thirty years—who has, since that time, been much employed in civil service, and has lately died in a civil office. A pension, or a grant of a gross sum of money, under such circumstances, is a new proceeding under our Government, and which finds no warrant in the constitution, and is utterly condemned by high considerations of public policy.

The Federal Constitution differs in its nature—and differs fundamentally, from those of the States. The States, being original sovereignties, may do what they are not prohibited from doing; the Federal Government, being derivative, and carved out of the States, is like a corporation, the creature of the act which creates it, and can only do what it can show a grant for doing. Now the moneyed power of the Federal Government is contained in a grant from the States, and that grant authorizes money to be raised either by loans, duties, or taxes, for the purpose of paying the debts, supporting the Government, and providing for the common defence of the Union. These are the objects to which money may be applied, and this grant to Mrs. Harrison can come within neither of them.

But, gentlemen say this is no pension—it is not an annual payment, but a payment in hand. I say so, too, and that it is so much the more objectionable on that account. A pension must have some rule to go by—so much a month—and generally a small sum, the highest on our pension roll being thirty dollars—and it terminates in a reasonable time, usually five years, and at most for life. A pension granted to Mrs. Harrison, on this principle, could amount to no great sum—to a mere fraction, at most, of these twenty-five thousand dollars. It is not a pension, then, but a gift—a gratuity—a large present—a national recompense; and the more objectionable for being so. Neither our constitution, nor the genius of our Government, admits of such benefactions. National recompenses are high rewards, and require express powers to grant them in every limited Government. The French Consular Constitution of the year 1799, authorized such recompenses; ours does not, and it has not yet been attempted even in military cases. We have not yet voted a fortune to an officer's or a soldier's family, to lift them from poverty to wealth. These recompenses are worse than pensions: they are equally unfounded in the constitution, and more incapable of being governed by any rule, and more susceptible of great and dangerous abuse. We have no rule to go by in fixing the amount. Every one goes by feeling—by his personal or political feeling—or by a cry got up at home, and sent here to act upon him. Hence the diversity of the opinions as to the proper sum to be given. Some gentlemen are for the amount in the bill; some are for double that amount; and some are for nothing. This diversity itself is an argument against the measure. It shows that it has no natural foundation—nothing to

rest upon—nothing to go by; no rule, no measure, no standard, by which to compute or compare it. It is all guess work—the work of the passions or policy—of faction or of party.

By our constitution, the persons who fill offices are to receive a compensation for their services; and, in many cases, this compensation is neither to be increased nor diminished during the period for which the person shall have been elected; and in some there is a prohibition against receiving presents either from foreign States, or from the United States, or from the States of the Union. The office of President comes under all these restrictions, and shows how jealous the framers of the constitution were of any moneyed influence being brought to bear upon the Chief Magistrate of the Union. All these limitations are for obvious and wise reasons. The President's salary is not to be diminished during the time for which he was elected, lest his enemies, if they get the upper hand of him in Congress, should deprive him of his support, and starve him out of office. It is not to be increased, lest his friends, if they get the upper hand, should enrich him at the public expense; and he is not to receive "any other emolument," lest the provision against an increase of salary should be evaded by the grant of gross sums. These are the constitutional provisions; but to what effect are they if the sums can be granted to the officer's family which cannot be granted to himself?—if his widow—his wife—his children can receive what he cannot? In this case, the term for which General Harrison was elected, is not out. It has not expired; and Congress cannot touch his salary, or bestow upon him or his, any emolument, without a breach of the constitution.

It is in vain to look to general clauses of the constitution. Besides the general spirit of the instrument, there is a specific clause upon the subject of the President's salary and emoluments. It forbids to him any compensation, except at stated times, for services rendered; it forbids increase or diminution; and it forbids all emolument. To give salary or emolument to his family, is a mere evasion of this clause. His family is himself—so far as property is concerned, a man's family is himself. And many persons would prefer to have money or property conveyed to his family, or some member of it, because it would then receive the destination which his will would give it, and would be free from the claims or contingencies to which his own property—that in his own name—would be subject.

There is nothing in the constitution to warrant this proceeding, and there is much in it to condemn it. It is condemned by all the clauses which relate to the levy and the application of money; and it is specially condemned by the precise clause which regulates the compensation of the President, and which clause would control any other part of the constitution which might come in conflict with it.

Condemned upon the constitutional test, how stands this bill on the question of policy and expediency? It is condemned—utterly condemned, and reprobated upon that test!

The view which I have already presented of the difference between military and civil services, (and I always include the naval when I speak of the military,) shows that the former are proper subjects for pensions—the latter not. The very nature of the service makes the difference. Differing in principle, as the military and civil pensions do, they differ quite as much when you come to details, and undertake to administer the two classes of rewards. The military has something to go by—some limit to it—and provides for classes of individuals—not for families or for individuals—one by one. Though subject to great abuse, yet the military pensions have some limit—some boundary—to their amount placed upon them. They are limited at least to the amount of armies, and the number of wars. Our armies are small, and our wars few, and far between. We have had but two with a civilized power in sixty years. Our navy, also, is limited; and, compared to the mass of the population, the army and navy must be always small. Confined to their proper subjects, and military and naval pensions have limits and boundaries which confine them within some bounds; and then the law is the same for all persons of the same rank. The military and naval pensioners are not provided for individually, and therefore do not become a subject of favoritism, of party, or of faction. Not so with civil pensions. There is no limit upon them. They may apply to the family of every person civilly employed—that is, to almost everybody—and this without intermission of time; for civil services go on in peace and war, and the claims for them will be eternal when once begun. Then again civil pensions and grants of money are given individually, and not by classes, and every case is governed by the feeling of the moment, and the predominance of the party to which the individual belonged. Every case is the sport of party, of faction, of favoritism, and of feelings excited and got up for the occasion. Thus it is in England, and thus it will be here. The English civil pension list is dreadful, both for the amount paid, and the nature of the services rewarded; but it required centuries for England to ripen her system. Are we to begin it in the first half century of our existence?

Mr. B. said he meant to exemplify the evils of this system of civil pensions, by showing what it had produced in England—that country from which we are so prompt to follow all that is bad, and so slow to follow the little that is good. He had a volume of the English pension and place list in his hand, from which he proposed to read a few items, by way of showing the working of the system, and the point to which it had arrived in England, and to which it must arrive here, if we once go into the fatal business of providing for families out

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*Mrs. Harrison's Bill.*

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of the public Treasury. The form which that abuse takes is threefold: 1st. The creation of unnecessary offices, with inordinate salaries, for the mere purpose of giving support to the incumbents. 2dly. Grants of money or property, in gross sums, out of the Treasury, to lift them from poverty to wealth. 3dly. Annual pensions from generation to generation, to enable them to live on the labor of the community, instead of their own. Of each of these three species of abuses, the English civil pension list affords the most abundant specimens; and he would read a few of them by way of sample. The sums were always stated in pounds sterling, which were readily converted into our currency by multiplying by five. In reading the instances, Mr. B. said he should take the names which were best known in this country, by which the Senate would the better understand the nature of the services which were rewarded. Mr. B. here read a list of pensions paid by the British Government.

Mr. B. said this was a specimen of the length to which the business of providing for families had gone in England; and, if commenced here, it will run the same length. Faction, party, and favoritism are the same everywhere, and nowhere run to greater excesses than in republics. Masses of men will do what no man singly will do. Masses will give tens and hundreds of thousands where a single individual would have given but units. We start here with giving twenty-five thousand dollars deducting the two thousand paid; and several are for doubling—some for quadrupling—that sum. But, take it at \$25,000, and it is a large sum to be presented to a lady to whom the Government owes not a cent! It is a large sum at any time, and especially at the present time, when the distress orators have resumed their old occupation, and utter their lugubrious cries of national distress to cover their new projects of loans and taxes. Loans and taxes are called for with one breath, and the money in the Treasury is squandered with another; and a system of national recompenses and civil pensions commences in the era of reform and economy, with a grant of \$25,000 where not a cent is due! and this brings me to the motive, or reason, for this large donation.

The aid of precedent is invoked in this case, but in vain. It has no precedent, but will form a dreadful one. And here let me repeat the words of a wise man with respect to these precedents. I speak of Mr. Macon, and of what I have often heard him say. It was this: That there was no equality in the use of precedents; that good ones stood for nothing, and the bad were followed; that any number of decisions in favor of the constitution fixed nothing in its behalf, while one decision against it was a precedent forever to be followed. These are the words of wisdom, and would have a complete application in this case, if there had ever been one decision against the constitution on this point; but there has yet been none. We have

yet to set the example of committing this outrage upon the constitution, giving it this deadly wound in a new place. Our Government has been in operation fifty-two years, and no civil pension, no national recompense, no grant of money out of the Federal Treasury, has been made as a present to a man or his family for civil services. That, of itself, is the decision of fifty-two years in favor of the constitution. A great many applications have been made to Congress for grants of money to distressed families, whose heads had rendered service to the State; they have all been refused. These are so many decisions again in favor of the constitution. But they all stand for nothing; and finding no decision in point to stand for a precedent in this case, the friends of the bill have recourse to those which are not analogous, and press into the service those which have no application to what we are now doing. At the head of these cases so cited stands the act for the benefit of Mrs. Brown, widow of General Brown, which was passed by Congress in the year 1828, and gave to her the remainder of her husband's pay for the year in which he died; that is to say, about nine months' pay.

I was contemporary with this case—know all about it—acted a part in it—have its history in my mind, as well as in the debates of the day—and can show that it has no analogy to the present case, and was respectably opposed at the time as being without warrant from the constitution—of evil example—and would be quoted in after times for even worse acts. I voted against it, and so did many others, and among them those who were usually found standing as a body guard around the constitution. The vote against the bill was: Messrs. Bell, Benton, Branch, Chandler, Cobb, Dickerson, Ellis, Foot, King of Alabama, Macon, Noble, Parris, Tazewell, Tyler, White, and Williams. We were sixteen who stood together on that occasion—a number not large, but graced with some names which have weight with the country. This case of Mrs. Brown's is quoted as a precedent for Mrs. Harrison's bill; but most unjustly. It is a military, and not a civil case. Her husband died in the army, and the reporter of the bill (General Harrison) produced the statements of the Surgeon General of the army, (Dr. Lovell,) and of another physician, (Dr. Henderson,) to prove that General Brown died in consequence of a disease contracted in the public service, and was to be classed with those who were killed in the line of their duty. "It will be seen (said General Harrison) that the Surgeon General asserts that, if General Brown had lived, and had retired from the army, he would have given him a certificate for a full pension under the existing laws of the country." This was the argument of General Harrison, and in conformity to it, he proposed a preamble to the bill in these words: "Whereas the late Major-General Brown died in consequence of indisposition, contracted in the service of the United States," &c., and



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another member of the Senate, now a Senator, (Mr. BERRIEN,) offered an amendment to the body of the bill, declaring the reasons for the grant in these words: "Whose death is supposed to have been caused by disease, contracted while in the service of the United States on the Niagara frontier." This preamble and this amendment were not adopted, for fear they would make precedents; and now the act becomes a far more dangerous precedent without these clauses than it would have been with them.

Sir, I hasten to my conclusion. Personally I was friendly to General Harrison when his friends were scarce; and if I needed any fresh evidences of the kindness of his heart, I had them in his twice mentioning to me during the short period of his Presidency, what, surely, I should never have mentioned to him, the circumstance of this friendship to him when his friends were scarce. I would gladly now do what should be kind and respectful to his memory—what should be liberal and beneficial to his most respectable widow; but, vote for this bill! that I cannot do. High considerations of constitutional law and public policy forbid me to do so, and command me to make this resistance to it, that a mark may be made—a stone set up—at the place where this new violence was done to the constitution—this new book opened in our public expenditures—and this new departure taken which leads into the bottomless gulf of civil pensions and family gratuities.

Mr. B. then made his motion in form, to recommit the bill with instructions to the committee to make a report, showing the grounds and reasons on which it was founded.

Mr. CALHOUN said he well understood the genius of this Government, and he believed no Government on earth leaned more than it did towards all the corruptions of an enormous pension list. Not even the aristocratic Government of Great Britain has a stronger tendency to it than this Government.

Referring to the bill now before the Senate; if it be admitted that it is an allowance for loss in the service of the public, where will be found the stopping point? Is there any just reason why hundreds of other claims on similar grounds shall not be admitted? If it is an allowance made to reinstate money laid out in expenses, put it on that ground, and let the data be furnished. Whatever ground it was based upon in the Committee, must have been strong enough to authorize the appropriation: why, then, should there be any hesitation in declaring what that ground was? In advocating the recommitment of this bill he was not actuated by any unkind feeling towards Gen. Harrison, for he respected him, and believed he was a kind and good-hearted man, who had few political opponents that would be influenced to vote against this grant on personal grounds. He opposed it because it was contrary to the constitution. What does the constitution say?

That the President of the United States shall receive no other allowance or emolument than the salary appertaining to his office. Suppose General Harrison had gone through his Presidential term, and it was found his salary was insufficient for his expenditures, could Congress make up the deficiency? Or, suppose he had died immediately after the expiration of his term, could Congress make up the loss to his family? Certainly not; because the constitution was a complete barrier to any such allowance. And what is there in the present case that differs in principle from the cases supposed? Nothing, whatever; and, he trusted, therefore, that this bill never would be allowed to pass.

Mr. LINN said those who felt themselves compelled to vote against the measure were unpleasantly situated, as they were compelled to take a course counter to their feelings and sympathies. It was a very easy matter for gentlemen, in the indulgence of their sympathies, to vote away money from the public Treasury, but did they consider where this thing was to stop? The next step will be to call upon us to vote a sum of money to the family of our Vice President; the next to the families of Senators and members of the other House, and so on down to the lowest officer in the Government. He would consider the passage of this bill as a most pernicious example, and would, therefore, vote against it.

The question was then taken on recommitting the bill, and it was decided in the negative, as follows:

YEAS.—Messrs. Allen, Benton, Calhoun, Clay of Alabama, Fulton, King, Linn, McRoberts, Pierce, Sevier, Smith of Connecticut, Tappan, Williams, Woodbury, Wright, and Young—16.

NAYS.—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Buchanan, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Huntington, Ker, Mangum, Merrick, Miller, Morehead, Nicholson, Phelps, Porter, Prentiss, Rives, Simmons, Smith of Indiana, Southard, Tallmadge, Walker, White, and Woodbridge—30.

Mr. CLAY moved that the bill be read a third time then; but it requiring unanimous consent, it was objected to.

The Senate then adjourned.

FRIDAY, JUNE 25.

*Mrs. Harrison's Bill.*

Mr. MILLER said, that yesterday no objections to this bill were heard but those of a constitutional nature. This morning another difficulty appeared to be in the way—this bill is to destroy the great Democratic party. One objection, of a constitutional nature, was, that Congress, though possessed of the power to exercise national liberality abroad, had none to do it at home. He did not so understand the constitution. He did not consider the appropriation founded on the principle of mere gratuity; it was, he thought, founded on the justice of paying a debt.

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Mr. M. was surprised to find the Senator from Illinois (Mr. YOUNG) had considered the sum too large. He again contrasted the course pursued by the Democratic Senators yesterday and to-day, and said that he could respect objections of a constitutional character, but intimated doubts of their sincerity, and quoted instances where Senators of that party had voted for appropriations involving the same principle as this. He was sorry to see the opposition to this bill. It should have passed with the solemnity of a funeral. The memory of the illustrious Harrison would be perpetually preserved, and a monument would be found in the heart of every citizen, from the shores of the Atlantic to the Rocky Mountains.

Mr. BENTON said he felt bound to reply to the remarks of the Senator from New Jersey, (Mr. MILLER,) which he had principally based on a misunderstanding of the remarks of his friend from Arkansas, (Mr. SEVIER.) He says that Senators on this side opposed the bill yesterday on constitutional grounds; but to-day they base their opposition on the ground of expediency, and he questions the sincerity of their motives. He felt constrained to tell the Senator that he was entirely mistaken as to the fact. While his political friends had placed the constitutional objection where it ought to be, whenever it applies in the fore front of their argument against this bill, they had laid out their strength principally on other grounds, as a question of high national policy, and whether we were to commence the system of civil pensions in this country. He separated entirely his views of public duty, from his feelings of private sympathy. He felt gratified that his vote in this case could not be imputed to personal hostility, as the distinguished individual whose name was mentioned in the bill and himself had preserved friendly relations to the close of his mortal career. The only two instances in which he had been called to oppose grants of this kind, were those in which his personal friends were interested. With the late Major-General Brown and his family, he was on the most intimate terms; and yet a sense of duty constrained him to vote against the measure for their relief, though it was based on much stronger grounds than the present. In that case were the military services of the General; the fact that his death was occasioned by disease contracted in war, and the penury of his family.

Mr. B. then referred to former Presidents who had gone out of office poor. Look at the case of Mr. Jefferson, a man than whom to no one that ever existed on God's earth were the human family more indebted. His furniture and his estate were sold to satisfy his creditors. His posterity was driven from house and home, and his bones now lay in soil owned by a stranger. His family are scattered; some of his descendants are married in foreign lands.

Look at Monroe—the amiable, the patriotic Monroe, whose services were Revolutionary, whose blood was spilt in the war of independ-

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ence, whose life was worn out in civil service, and whose estate has been sold for debt, his family scattered, and his daughter buried in a foreign land.

Look at Madison, the model of every virtue, public or private, and he would only mention in connection with this subject, his love of order, his economy, and his systematic regularity in all his habits of business. He, when his term of eight years had expired, sent a letter to a gentleman, (a son of whom is now upon this floor,) [Mr. PRESTON,] enclosing a note for five thousand dollars, which he requested him to endorse, and raise the money in Virginia, so as to enable him to leave this city, and return to his modest retreat—his patrimonial inheritance—in Virginia.

These were honored leaders of the Republican party. They had all been Presidents. They had made great sacrifices, and left the Presidency deeply embarrassed, and yet the Republican party, who had the power and the strongest disposition to relieve their necessities, felt they had no right to do so by appropriating money from the public Treasury. Democracy would not do this. It was left for the era of Federal rule and Federal supremacy—who are now rushing the country with steam power into all the abuses and corruptions of a monarchy, with its pensioned aristocracy—and to entail upon the country a civil pension list.

Mr. SMITH, of Indiana, said that this moment, in affording him the opportunity of voting for this bill, was the proudest in his life. If the choice was presented to him of resigning his seat as a member of that body, or not to vote for the bill, he would most cheerfully retire from public life. He considered this amount of a year's salary as but a slight tribute to the exalted patriotism and invaluable services of one of the greatest men this country had produced.

The question was then taken on the passage of the bill, and it was decided in the affirmative as follows:

YEAS.—Messrs. Barrow, Bates, Bayard, Berrien, Buchanan, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Huntington, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Prentiss, Preston, Rives, Simmons, Smith of Indiana, Southard, Tallmadge, Walker, White, and Woodbridge—28.

NAYS.—Messrs. Allen, Benton, Calhoun, Clay of Alabama, Fulton, King, Linn, McRoberts, Pierce, Sevier, Smith of Connecticut, Sturgeon, Tappan, Williams, Woodbury, Wright, and Young—16.

## HOUSE OF REPRESENTATIVES.

THURSDAY, July 1.

*Bankrupt Law.*

The SPEAKER laid before the House a Message from the President of the United States, enclosing a memorial from citizens of New York, praying the passage of a bankrupt law. The memorial was signed by 8,000 persons.

JULY, 1841.]

*A Loan of Twelve Millions.*

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The Message was read, and is in the following words:

*To the House of Representatives of the United States:*

The accompanying memorial in favor of the passage of a bankrupt law, signed by nearly three thousand of the inhabitants of the city of New York, has been forwarded to me, attended by a request that I would submit it to the consideration of Congress. I cannot waive a compliance with a request urged upon me by so large and respectable a number of my fellow-citizens. That a bankrupt law, carefully guarded against fraudulent practices, and embracing, as far as practicable, all classes of society—the failure to do which has heretofore constituted a prominent objection to the measure—would afford extensive relief, I do not doubt. The distress incident to the derangements of some years past, has visited large numbers of our fellow-citizens with hopeless insolvency, whose energies, both mental and physical, by reason of the load of debt pressing upon them, are lost to the country. Whether Congress shall deem it proper to enter upon the consideration of this subject at its present extraordinary session, it will doubtless wisely determine. I have fulfilled my duty to the memorialists in submitting their petition to your consideration.

JOHN TYLER.

WASHINGTON, June 30, 1841.

The Message and memorial were referred to the Committee on the Judiciary, and the Message was ordered to be printed.

Mr. McKEON rose, and desired to ask the chairman of the Committee on the Judiciary (Mr. BARNARD) when it was probable that a bankrupt bill would be reported.

Mr. BARNARD said that it was impossible for him to answer the question. The Committee on the Judiciary had the subject under consideration. He had no doubt that they would agree upon a bill, and that it would be presented here. It was hoped, at least upon his part, that it would be presented in time for the action of the House at the present session. So far as he might be concerned, such was his intention.

Mr. PENDLETON said that, some days since, he had presented a resolution upon this subject, of which he was now reminded by the Message just received from the President of the United States. He (Mr. P.) understood the chairman of the Committee on the Judiciary, which had this subject in charge, to say that a bankrupt bill would be presented this session. The object of his (Mr. P.'s) resolution was to get an expression of the opinion of this House, by the means of instructions to the committee. As the necessity for such a resolution had thus been obviated, he would, if it was the pleasure of the House now to take up the resolution, move to lay it on the table.

IN SENATE.

SATURDAY, July 3.

*Fiscal Bank of the United States.*

The Senate then proceeded to the consideration of the bill to incorporate the subscribers

to the Fiscal Bank of the United States, the question being on the amendment proposed by Mr. RIVES.

Mr. BAYARD addressed the Senate at considerable length, declaring his intention to vote for Mr. RIVES's amendment, and concluded by offering the following amendment as a substitute for that of the Senator from Virginia, (Mr. RIVES.)

Strike out all after the word "corporation," and insert, "may establish agencies, to consist of three or more persons, or to employ any bank or banks, at any places they may deem proper, to perform the duties hereinafter required of the said corporation, as the fiscal agent of the Government, and to manage and transact the business of the said corporation other than the ordinary business of discounting the promissory notes. That is to say, the said corporation shall have the right at such agencies to receive deposits, to deal or trade in bills of exchange, gold or silver coin, or bullion, or goods or lands, purchased on execution, or taken *bona fide* in payment of debts, or goods which shall be the proceeds of its lands, and to circulate its notes. And, moreover, it shall be lawful for the said Board of Directors to convert such agencies into offices of discount and deposit, unless the Legislature of any particular State in which such agency shall be established, shall, at its next session after such agency is established, express its dissent thereto."

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, July 7.

*Home Squadron.*

Mr. THOMAS BUTLER KING, from the same committee, made a report on the expediency of providing for a home squadron, accompanied by a bill making appropriations for the pay and subsistence of such squadron; which was referred to a Committee of the Whole on the state of the Union.

Ordered, on motion of Mr. ADAMS, that 5,000 additional copies of the report and bill be printed.

#### *A Loan of Twelve Millions.*

On motion of Mr. FILLMORE, the committee next took up the bill making provision for a loan of twelve millions of dollars, irredeemable for eight years.

The bill was read through, and then read by sections.

Mr. FILLMORE, chairman of the Committee of Ways and Means, intimated his intention to offer an amendment to the bill, when the fourth section should come to be considered.

The first section having been read—

Mr. WISE inquired whether, when one section of the bill had been read, it was not immediately open to debate?

The CHAIR replied in the affirmative.

Mr. BARNARD said such a course was unusual.

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*A Loan of Twelve Millions.*

[JULY, 1841.]

He was desirous, first, to hear the general explanation of the chairman of the committee who had introduced the bill, and to open an opportunity for such a general statement, Mr. B. would move to strike out the first section of the bill. This was the regular motion, and not to strike out the enacting clause, which a committee could not properly, and according to parliamentary usage, strike out. He moved to strike out all the first section after the enacting clause.

Mr. PROFFIT moved to strike out the enacting clause.

The CHAIRMAN pronounced this motion in order; and

Mr. FILLMORE thereupon went into a general analysis of the bill. Its whole provisions might be stated in a few words: it authorized the President to borrow twelve millions of dollars at an interest not to exceed five per cent., reimbursable at the end of eight years, with an additional authority to the Secretary of the Treasury, when there should be a surplus in the Treasury, to buy up the stock.

The first question would be, is such a loan necessary? or any part of it? For it did not follow because the President was empowered to borrow twelve millions, that he must therefore borrow the entire sum. In order to ascertain whether the loan was necessary, it would be requisite to resort to the report of the Secretary of the Treasury, from which it appeared there would be a deficit on the 1st of September next of \$5,251,888 80. This was the most immediate and pressing want of the Treasury. This deficiency now existed, and the money would be wanted to meet the demands on Government between now and the 1st day of September next. Mr. F. here quoted the report, page 4. He should not go into an elaborate examination of each item in the Secretary's account, whether of the receipts into the Treasury or of its wants. He should confine himself to a general review of them in the order in which they stood.

Mr. F. then went on from item to item, briefly explaining each as he proceeded, making copious quotations from the report of the Secretary of the Treasury.

He concluded with a brief comparison between a loan and Treasury notes as a measure of supply, and avowed his preference for a loan as more convenient, and also more open and manly.

Mr. GORDON rose and expressed his disapprobation of the bill: first, because he regarded the obtainment of a loan to be entirely unnecessary; and secondly, because he was opposed to the policy of borrowing money. He thought it was unnecessary to resort to a loan, maintaining that if the affairs of this Government were economically and properly managed, they could not stand in need of means to carry it on. It appeared that, on the 1st of January last, there was a balance in the Treasury of \$987,345 03. Now, with an accruing revenue from

the public lands, from the customs, and from other and various sources, this Government could and ought, if economically conducted, go on very well without contracting a national debt. The revenue of this year would be nearly as large as that of 1840, while the disbursements would not be near so large. He would not go into an examination of the accounts, in order to show what was the condition of the Government last year, as the time allowed him would not admit of it, but he would merely say that the receipts into the Treasury for 1841, if not equal, would nearly equal those of 1840. Did not, he would ask, the majority on this floor admit by their action yesterday, in reference to the public lands, that they did not stand in need of this loan? What had they done? Why, they had passed a bill giving away an annual revenue of from three to five millions of dollars, derived from the sales of the public lands, and necessary to carry on the operations of this Government, and had thereby created a necessity for a national debt. Now this was singular and most extraordinary legislation. If this Government stood in need (and he believed it did) of that revenue, what policy was there in getting rid of it only to obtain so much elsewhere? None, that he could see. The public lands were a source of revenue to the General Government, and were ceded to it, as he could most clearly and distinctly show, for the purpose of enabling it to conduct its affairs for the benefit and welfare of the people of this great country. These lands, he found from reading an article in the National Intelligencer, had actually yielded us a net revenue of one hundred and forty-two millions of dollars. This proposition to raise a loan was, in fact, to create a funded debt for eight years, and, if it should be carried out, would form a part of that scheme which General Hamilton had many years ago advocated. It would, indeed, create a National Bank. This revenue arising from the sales of the public lands, was to be scattered to the winds to secure votes in favor of a National Bank, and all the other great and leading measures of the present Federal Administration. He knew that Congress had the power to lay and collect taxes, duties, imposts, and excises, and he supposed that a resort to some of these measures would be had, ere long, to make up the deficiency in the revenue thus created by disposing of that obtained from the public lands. Now, those very lands were given to the General Government to relieve it from the necessity of resorting to the taxing power; so that this course was reversing the ancient order of things. We were now taking away those lands, the necessary consequence of which would be, he had no doubt, the imposition of duties on imported articles; in short, a tariff. He would ask whether it would not be wise and statesmanlike to lay duties rather than to borrow money, and to postpone the payment of the debt, perhaps for many years to come? He thought it would. But this, it seemed, was a

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part of the policy of the Harrison Administration. He contended that this Government might, by prudent management, have revenue fully adequate to all its wants, and that it need not contract a permanent debt.

He next argued that by the deeds of cession of New York and Virginia, it was plain and palpable that the intentions of those States in ceding their lands were, that they should be a source of revenue to the General Government. And now, said he, this source of revenue is to be cut off, and the lands are to be given away to the several States. Were we now called upon to pay the debts of the General Government? Certainly not; it was to assist those States that were deeply involved in paying their debts. One, among the other objects, it was pretended, for the calling of this extra session, was to pass a measure distributing the proceeds of the sales of the public lands. Yes! it was to encourage all sorts of extravagance and waste; it was to establish a National Bank, to give away the public lands, and to create a national debt. He would say that the tendency of this measure was to create a national debt in order that we might have a National Bank, and this national debt was to furnish the life-blood of a National Bank. And it appeared that sixteen millions of dollars of stock was required to put this Bank in operation! and taking this in connection with the fact of passing the bill granting the enormous sum of \$25,000 to the widow of General Harrison, these things might fairly be said to form a part of General Hamilton's scheme in 1800. It was, in short, a part of that exploded system. Create a National Bank, and a national debt, and you centralize the Government. Gentlemen had contended that this Government has a right to dispose of the public lands and any other public property, consequently it had a right, if it thought proper, to dispose of the lands to create a vacuum in the Treasury and a national debt. Now, if it had this power to give away those lands, why then had it also the power to dispose of other property. Could it, he would ask, give away its forts, its armories, its arsenals, its ships, &c.?

Mr. ARNOLD rose to a point of order. I rise to ask if it is in order to discuss the question of the public lands?

The CHAIRMAN said it was not in order except in so far as that subject had a bearing upon the one before the committee.

Mr. GORDON resumed. He knew the question of public lands was not strictly in order; but he deemed it somewhat connected with his argument, and, therefore, he had taken occasion to refer to it. He, however, knew that the majority on this floor did not like to hear sentiments such as he had uttered. He knew that they did not like to have it said that this grand scheme was an excuse—

The CHAIRMAN reminded the gentleman that he was not in order in the course of argument he was pursuing.

Mr. CUSHING hoped the gentleman would be allowed to proceed.

And no objection having been made—

Mr. GORDON then resumed his remarks, by saying that the result of the course which this Administration were adopting, would be the introduction of a high protective tariff or direct taxes. This would be in consequence of giving away the public lands. He would tell the people of the South, that it would not be long before they would see the protective system made to bear harder than it did at present upon them. Here was an Administration attempting to create a national debt and a National Bank. Here was the public Treasury plundered for the purpose of subjecting the people, and blinding them to the power of taxation, when they could be relieved by an economical Administration with a very slight resort to the taxing power.

Mr. G. next entered into a contrast of the Sub-Treasury and a National Bank, and after speaking in the most exalted terms of the former, and setting forth the good effects it would have worked if allowed to remain, he depicted in the most gloomy colors the great evils that would result from the establishment of a National Bank. He then adverted to the report of the Secretary of the Treasury, and said that the gentleman from New York (Mr. FILLMORE) had taken for granted all that had been said by that officer about a loan, without entering into an examination, and judging for himself as to the amount that would be required. Now if we needed twelve millions, why postpone the payment of it for eight years, and thus compel the Government to pay interest on the sum all that time? He would ask when Congress would have the means of paying off the debt, when it had got rid of the public lands? And yet, strange to say, we were about to give them away to the States for the purpose of relieving them! He wanted to get at the exact amount of the debt; and then, if it was thought it could not be paid off in 1841, why, he would ask, should the Government not issue Treasury notes instead of creating a national debt? This would be the wisest course, in his opinion, to pursue. But he repeated what he had already said, that the Government possessed ample means, and ought not to resort to a national debt. Did the Whig party, when electioneering last fall, tell the people that they would create a national debt? No, not they; they knew better. And now here they were coming down upon us for a national debt, for a National Bank, and for a tariff. In what part of the country had the Whigs preached these things? He would tell his constituents that we were to have a National Bank forced upon us—that we were to have a national debt—that we were to have the protective system extended—and all these things were to be for the benefit of this Administration and its allies. He concluded with saying that, having got rid of the public lands, the Government would feel

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itself compelled to resort to the taxing power to sustain itself.

Mr. FILLMORE moved for the rising of the committee; which motion prevailing, The House adjourned.

## IN SENATE.

MONDAY, July 12.

*Land Distribution Bill.*

Mr. SMITH, of Indiana, from the Committee on the Public Lands, reported back to the Senate the bill from the House to appropriate the proceeds of the public lands, and to grant pre-emption rights, with two amendments.

The first is to grant five hundred thousand acres of land to each new State that shall hereafter be admitted into the Union, upon such admission, upon the same terms and condition as the grants to the new States are made.

The second amendment is to repeal a proviso in the act of 2d June, 1838, reserving certain lands from sale and from pre-emption rights, under the treaty of Dancing Rabbit creek.

Mr. S. said neither of the amendments involved any principle adverse to the general provisions of the bill. The first was supposed to be necessary, to do justice to the States hereafter to be admitted into the Union. The committee had thought that this was the proper time to make the provision for the States hereafter to be admitted, which would place them on a similar footing with the other new States.

The other amendment was made at the instance of the member of the committee from Mississippi, and was believed to be necessary to give to that State the benefit of the act, so far as the pre-emption principle was concerned.

Mr. S. had been indisposed to make any amendments to the bill of the House, lest it might operate against its final passage; but the amendments proposed seemed to be so essential that he had consented to them, with a confident belief that they would not be objected to, and that the sanction of the Senate to the bill, as amended, would be promptly responded to by the House, on its return to that body. He would not say more, this was not the proper time; but he thought it proper to explain the object of the amendments.

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The Senate then proceeded to the discussion of the special order, being the bill to incorporate the subscribers to the Fiscal Bank of the United States.

Mr. CALHOUN was not surprised at the impatience of the Senator from Kentucky, though he was at his attributing to this side of the chamber the delays and obstacles thrown in the way of his favorite measure.

How many days did the Senator himself spend in amending his own bill? The bill had

been twelve days before the Senate, and eight of those had been occupied by the friends of the bill. The delay did not originate on this side of the House; but now that the time which was cheerfully accorded to him and his friends is to be reciprocated, before half of it is over, the charge of factious delay is raised. Surely the urgency and impatience of the Senator and his friends cannot be so very great, that the minority must not be allowed to employ as many days in amending their bill as they took themselves to alter it. The Senator from Kentucky says he is afraid, if we go on in this way we will not get through the measures of this session till the last of autumn. Is not the fault in himself, and in the nature of the measures he urges so impatiently? These measures are such as the Senators in the minority are wholly opposed to on principle—such as they conscientiously believe are unconstitutional—and is it not then right to resist them, and prevent, if they can, all invasions of the constitution? Why does he build upon such unreasonable expectations, as to calculate on carrying measures of this magnitude and importance with a few days of hasty legislation on each? What are the measures proposed by the Senator? They comprise the whole Federal system, which it took forty years, from 1786 to 1829, to establish—but which are now, happily for the country, prostrate in the dust. And it is these measures, fraught with such important results, that are now sought to be hurried through in one extra session; measures which, without consuming one particle of useless time to discuss fully, would require, instead of an extra session of Congress, four or five regular sessions.

The Senator said the country was in agony, crying for "action," "action." He understood whence that cry came—it came from the holders of State stocks, the men who expected another expansion to relieve themselves at the expense of Government. "Action"—"action" meant nothing but "plunder," "plunder," "plunder," and he assured the gentleman, that he could not be more anxious in urging on a system of plunder, than he (Mr. CALHOUN) would be in opposing it. He so understood the Senator, and he inquired of him, whether he called this an insidious amendment?

Mr. OLAY. I said no such thing, sir; I did not say any thing about the *motives* of Senators.

Mr. CALHOUN said he understood the Senator's meaning to be that the motives of the Opposition were factious and frivolous.

Mr. OLAY. I said no such thing, sir.

Mr. CALHOUN. It was so understood.

Mr. OLAY. No, sir; no, sir.

Mr. CALHOUN. Yes, sir, yes; it could be understood in no other way.

Mr. OLAY. What I did say, was, that the effect of such amendments, and of consuming time in debating them, would be a waste of that time from the business of the session; and, consequently, would produce unneces-

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sary delay and embarrassment. I said nothing of *motives*—I only spoke of the practical *effect* and result.

Mr. CALHOUN said he had understood it had been repeated for the second time, that there could be no other motive or object entertained by the Senators in the opposition, in making amendments and speeches on this bill, than to embarrass the majority by frivolous and vexatious delays.

Mr. OLAY insisted that he made use of no assertions as to *motives*.

Mr. CALHOUN. If the Senator means to say that he does not accuse this side of the House of bringing forward propositions for the sake of delay, he wished to understand him.

Mr. OLAY. I intended that.

Mr. CALHOUN repeated that he understood the Senator to mean that the Senators in the opposition were spinning out the time, for no other purpose but that of delaying and embarrassing the majority.

Mr. OLAY admitted that was his meaning, though not thus expressed.

Mr. CALHOUN observed that to attempt, by such charges of factious and frivolous motives, to silence the opposition, was wholly useless. He and his friends had principles to contend for that were neither new nor frivolous, and they would here now, and at all times, and in all places, maintain them against those measures, in whatever way they thought most efficient. Did the Senator from Kentucky mean to apply to the Senate the gag law passed in the other branch of Congress? If he did, it was time he should know that he (Mr. CALHOUN) and his friends were ready to meet him on that point. It was not his intention, and he knew that it could not be the intention of any of his friends, to waste unnecessarily one particle of the time of this session; but time they would require to amend the bill, and that was all they asked. Certain he was, that no other than a fair and open opposition, on principle, was meant. As long as discussion was necessary, they should have it—beyond that, they did not look.

Mr. OLAY said that, with respect to the motives of the honorable Senators on the other side, he would say nothing. But with regard to the tendency of the course pursued, he would say, that it could lead to nothing but delay. It could lead to no practical result. What was the case the other day on one motion for an amendment that there could have been no rational hope of carrying? There were not less than seven speeches on that side, and not a word on this: yet the decision was so decidedly against it, as to show that it was nothing but time thrown away, for no end. He did not attribute to the Senators any motives for delay. He only spoke of the matter of fact. He admitted that his side had had its share of time to mature the bill; but that was their right, as the friends of the measure—they were entitled to such time as

was requisite in perfecting it. He did not doubt that the Senators on the other side conceived they were following the path of duty, and acting conscientiously, according to the opinions they entertained, in trying to defeat the measure, or, if they could not do that, to render it as odious as possible in the eyes of the world, in order that it might ultimately fail. He recollected a parallel instance. During the war with Great Britain, Mr. Pickering and some others denounced a loan which went to carry on the war, and endeavored to dissuade capitalists from embarking in this loan. What had now been the course of gentlemen on the other side, whom he regarded as modern Federalists? To denounce this Bank—to declare that this stock would never be taken up, and to say that they would agitate the question of repeal till it was effected. With regard to the time to be thus consumed on this measure, and the others in contemplation—such as the distribution of the proceeds of the public lands—have not these subjects been discussed over and over, and what necessity can there be of making long speeches on them now? Was it not all a wasteful delay of public business? It must be admitted that the abilities of the Senators on the other side were very great; but they were not great enough to put out the light which had gone abroad, and shown the people where their true interests lay. Let those Senators go into the country, and they will find the whole body of the people complaining of the delay and interruption of the national business, by their long speeches in Congress; and if they will be but admonished by the people, they will come back with a lesson to cut short their debating, and give their attention more to action than to words. Who ever heard that the people would be dissatisfied with the abridgment of speeches in Congress? He had never heard the shortness of speeches complained of. Indeed, he should not be surprised if the people would get up remonstrances against lengthy speeches in Congress.

With regard to the intimation of the gentleman from South Carolina, (Mr. CALHOUN,) he understood him and his course perfectly well, and told him and his friends that, for himself, he knew not how his friends would act; he was ready at any moment to bring forward and support a measure which should give to the majority the control of the business of the Senate of the United States. Let them denounce it as much as they pleased in advance; unmoved by any of their denunciations and threats, standing firm in the support of the interests which he believed the country demands, for one, he was ready for the adoption of a rule which would place the business of the Senate under the control of a majority of the Senate.

Mr. CALHOUN said there was no doubt of the Senator's predilection for a gag law. Let him bring on that measure as soon as ever he pleases.

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Mr. BENTON. Come on with it

Mr. CALHOUN said that it must be admitted that, if the Senator was not acting on the Federal side, he would find it hard to persuade the American people of the fact, by showing them his love of gag laws, and strong disposition to silence both the national councils and the press. Did he not remember something about an alien and sedition law, and can he fail to perceive the relationship with the measure he contemplates to put down debate here? What is the difference, in principle, between his gag law and the alien and sedition law? We are gravely told that the speaking of the representatives of the people, which is to convey to them full information on the subjects of legislation in their councils, is worse than useless, and must be abated. Who consumed the time of last Congress in long speeches, vexatious and frivolous attempts to embarrass and thwart the business of the country, and useless opposition, tending to no end but that out of doors, the Presidential election? Who but the Senator and his party, then in the minority? But now, when they are in the majority, and the most important measures ever pressed forward together in one session, he is the first to threaten a gag law, to choke off debate, and deprive the minority even of the poor privilege of entering their protest. What does the minority contend for, but their undoubted right to question, examine, and discuss those measures which they believe in their hearts are inimical to the best interests of the country? It was objected that on one amendment seven speeches had been made on this side of the House. And what if there were? Was it any thing extraordinary in the fact that seven Senators from different parts of the Union, should have different views and different interests to consider, or that each should require time to deliver his views on a question of the utmost importance—on a question reaching to every man in the community—a question demanding publicity in relation to the power of creating fluctuations in the currency which adjusts the price of every man's labor and property? Yet the remonstrance against keeping a thing of such vital interest secret from the people, is now pronounced by the Senator from Kentucky the best of reasons for urging his odious gag law upon those who have dared to remonstrate. The Senator refers to the course pursued by Mr. Pickens in a contest with the foreign enemies of the country. He (Mr. C.) would not say that he and his friends were contending with domestic enemies; but they did insist that they were opposing principles which were as important as those involved in that contest. What, now, is the situation of parties here? The Senator from Kentucky and his friends, according to the belief of the minority in this body, are trying to enforce measures which that minority believes are against the best interests of the people of the United States; and

that minority is trying to resist, and, if they cannot prevent those measures, to make them at least as harmless as they can. He (Mr. CALHOUN) never had but one opinion; that from the time the suspension of the banks took place, and the issue was before the people between a Sub-Treasury and a National Bank, it was the same vital principles of high taxes, high tariff, funded debt, and distribution, which were to be made the basis of obtaining political power; and all that was wanting was, the machine for concentrating these elements of power. And he did trust that the gentlemen with whom he acted, would go on and do their duty, without being deterred by any menace of a gag law from making such amendments as they might think proper.

One word as to this ten millions. Have we got it? No. From whom are we to get it? From the people of the United States. How? By a mortgage on their property and labor at 5 per cent. It is to be made up by a tax on them. This borrowed capital and tax are to be brought to this city and placed in the hands of nine men, to do what they please with it—to distribute it to distant offices to be lent to their private friends and acquaintances. The loaning capacity of these nine men is nothing; but they may hand it to others to loan out. Whatever is to be done with it, is to be done in secret, and kept from the people. Now, is it not better to leave this money in the people's own pockets, and let them dispose of it themselves? What right has Congress to lend money at all? That question is no new question of discussion. Has it ever been settled that Congress has that right? Then if Congress has no such right—if the Government has no such right—if no individuals connected with any of these Departments has the right—neither collectively nor separately—how can the right be derived from them through a thing of their creation? The truth is, when it is proposed to establish a corporation to do what you cannot do yourselves, you erect something to deceive the people into a belief that it has a vitality and power which its creators had not, and consequently could not impart, but which has a sort of mysteriousness about it that serves to blind those who look at it into some vague belief in its capacity.

Mr. LEXY said he supposed he had precisely the same right as any other Senator on that floor to speak his sentiments freely, and to take as wide a range of debate as he might think proper, adverting to whatever topic he might deem necessary, whether connected with the motion under discussion or not. He would proceed on this assumption of right, till stopped; but if the Senate pronounced that, in this course, he was out of order, and should not go on, he would, of course, submit; but then he would require the same rule to be applied to others as to him. Having said so much by way of preface, he would now begin by reminding the gentlemen on the other side,



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of a good old saying of a celebrated Roman Consul—which they cannot be reminded of too often—that men out of power entertain very different sentiments from those they are governed by when in power. This is the saying of a very brave and wise Consul of a great ancient Republic, and should not be too easily forgotten. He (Mr. LINN) knew very well that the Democratic party was considered the dregs of the earth by the favored few who contrived to rule every thing. He knew that even women and children were persuaded that none but those favored few and their families, and the wives and daughters of bank directors, were fit society for any one of fashionable or decent notions. The doors of such people were shut against the best young men in the country, if they were known to entertain Democratic notions, as if they were something beneath the notice of good society. But there were some places yet left where these unfashionable Democrats might raise up their voices. He (Mr. LINN) would, for his part, make a few remarks here, and in doing so he intended to be as pointed as possible, for he had now, he found, to contend for liberty of speech, and while any of that liberty was left, he would give his remarks the utmost bounds consistent with his own sense of what was due to himself, his constituents, and the country.

The Whigs, during the late Administration, had brought to bear a system of assault against the majority in power, which might justly be characterized as frivolous and vexatious, and nothing else; yet they had always been treated by the majority with courtesy and forbearance; and the utmost latitude of debate had been allowed them without interruption. In a session of six months, they consumed the greater part of the time in speeches for electioneering effect, so that only twenty-eight bills were passed. These electioneering speeches, on all occasions that could be started, whether the presentation of a petition, motion on a resolution, or discussion of a bill, were uniformly and studiously of the most insulting character to the majority, whose mildest form of designation was "collar men," and other epithets equally degrading. How often had it been said of the other branch of Congress, "What could be expected from a House so constituted?" Trace back the course of that party, step by step, to 1834, and it may be tracked in blood. The outrages in New York in that year are not forgotten. The fierce and fiendish spirit of strife and usurpation which prompted the seizure of the public arms, to turn them against those who were their fellow-citizens, is yet as fresh as ever, and ready to win its way to what it aims at. What was done then, under the influence and shadow of the great money power, may be done again.

He (Mr. LINN) had marked them, and nothing should restrain him from doing his duty and standing up in the front rank of opposition to keep them from the innovations they

meditated. Neither the frown nor menace of any leader of that party—no lofty bearing or shaking of the mane—would deter him from the fearless and honest discharge of those obligations which were due to his constituents and to the country. He next adverted to the conduct of the Whig party when the Sub-Treasury was under discussion, and reminded the present party in power of the forbearance with which they had been treated, contrasting that treatment with the manifestations now made to the minority. We are now, said Mr. LINN in conclusion, to be checked; but I tell the Senator from Kentucky, and any other Senator who chooses to tread in his steps, that he is about to deal a double-handed game at which two can play. He is welcome to try his skill. But I would expect that some on that side are not prepared to go quite so far; and that there is yet among them sufficient liberality to counterbalance political feeling, and induce them not to object to our right of spending as much time in trying to improve their bill as they have taken themselves to clip and pare and shape it to their own fancies.

Mr. WALKER said, in reply to the remark of the Senator from Kentucky, (Mr. CLAY,) that those who were opposed to the bill were endeavoring to make it odious by the amendments they proposed; that he had not, and would not, pursue such a course. On the contrary, feeling that this bill was likely to become a law, he had voted alone for those amendments which, in his opinion, went to improve the bill. Influenced by this motive, he had voted for amendments proposed by the Senator from Kentucky and his friends, and opposed some of those which were proposed by his (Mr. W.'s) political friends. He held that the course which the Senator from Kentucky had unjustly attributed to the opponents of the bill, would be entirely improper and unparliamentary. With regard to the remark of the Senator as to the time consumed by the opponents of the bill, nearly two days were occupied in discussing five amendments proposed by himself, (Mr. W.), and four of which were adopted. Did the Senator attribute to a majority of the body a design to render the bill odious? And what were those amendments which he (Mr. W.) had proposed, and which had been adopted? The first was to permit any ten or more stockholders, or their agent, to inspect all the proceedings of the Bank, including individual accounts; the second was, that upon all discounts over one thousand dollars, where any director dissented, the vote should be taken by ayes and noes, and these be open to inspection, so as to secure individual responsibility and prevent abuses—the third was to prevent any director anywhere from being liable to the Bank in more than ten thousand dollars, so as to prevent these directors loaning out to themselves one-fourth of the whole loans of the Bank, as it was officially proved they had done in many States—and fourthly, the amend-

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ment prohibiting any loan or discount to any member of either House of Congress—and was not this right? Ought we, first, by our votes to create a Bank, put into it, in stock and deposits, more than twenty millions of the public money, and then draw from this Bank as much money as we could obtain from this Bank, created by our votes? Besides, we were to determine each year, whether the public moneys could continue on deposit in this Bank—the Senate were to vote upon the appointment of at least one-third of the directors every year, and both Houses were annually, if they pleased, to investigate all the individual accounts of and business of the Bank, and it was proper we should be borrowers, and might we not fear that investigation would be voted down, when forty-four members of Congress should be again borrowers from the Bank to the amount of half a million, as it was officially reported by Mr. OLATON that they were in 1832? Was it odious to apply to the members of Congress the sacred prayer, “lead us not into temptation”—to prevent their being placed in a situation as to this Bank, in which we are told by Holy Writ, that the borrower was the servant of the lender? Was it odious, by avoiding these Bank loans, to lift the representatives of the States and of the people, above derogatory suspicions, and above all imputations, true or false?

He appealed then to the Senate, and to the Senator from Kentucky himself, whether it was just to characterize these amendments, all adopted in part by the aid of his friends, as designed to make the bill odious?

As to the amendment proposed by the Senator from New York, he was in favor of it. We are told that it is necessary for the Government to subscribe to the amount of ten, or perhaps sixteen millions, to secure the public money which may be on deposit. The Secretary of the Treasury seems to think that the average amount on deposit will be four millions, although Mr. W. thought it would be six millions. Then we have to subscribe sixteen millions to secure four or six millions. This was an extraordinary rate of insurance, and one to which he should not give his consent.

Mr. ALLEN wished to correct an error that had fallen from an honorable Senator opposite, and that was in attributing the defalcation of Swartwout as a fruit of the Independent Treasury, which was not in existence until a considerable time after his defalcations were discovered. They took place under the State bank deposit system, and would have taken place had the United States Bank system been in existence. So far as he knew, and if the fact had been otherwise, it would have been made public, not a single dollar has been lost since the establishment of the Independent Treasury, and this was a sufficient comment on the system itself.

It is contended on the other side, also, in opposition to this amendment, and in favor of

the connection of the Government with this Bank, that it will be a profitable speculation, and the results of the old Bank connection are adduced to show how many millions were made by it. This Government is invoked to become a speculator in stocks! Suppose there was a hundred millions made by the connection with the late Bank. How was it made? Off of whom was it made? The people. The people. And this system of speculating on people is well kept up in the bill reported from the committee this morning, and which is now on your table, to distribute the revenue from the sales of the public lands. The bill professes to give the people of the States three millions annually, but does not tell them that three millions and a half are to be raised by taxes from the same people, to supply its place in carrying on the operations of the Government. The States may with propriety say as said one of the ancient heroes: “I fear the Greeks, though they bring gifts in their hands.” The proposition is in reality to give three millions, and to take back three millions and the expenses attending the collection and distribution of it.

Mr. BUCHANAN said it was with the greatest reluctance he engaged in this debate. He had intended to offer two or three amendments to this bill before it was taken out of the committee, upon each of which he would probably make a few remarks, but nothing was further from his intention or expectation than that he should be called on to take part in any discussion which might arise on the bill to-day. But the Senator from Kentucky had denounced in the strongest terms the jacobinical doctrine of the repealability of charters. Now he (Mr. B.) contended that the power of repeal, in this particular case, existed not only under the constitution, but was sanctioned by judicial decisions. The Supreme Court, Chief Justice Marshall presiding, had declared that in public corporations, to be employed in the administration of the Government, the right of repeal existed, but that it did not exist in private corporations. But did it require the decision of a court to establish this principle? Can Congress annihilate the sovereign legislative powers conferred upon it for the benefit of the whole people by transferring them to a corporation? If it can do this for one year, what would prevent it from doing for fifty years, or forever? The decision of the Supreme Court was, that if the corporations were of public concern—were a grant of political power to be employed in the administration of the Government, it was subject to repeal or modification by the legislative power. This was the decision of the judiciary, and was the spirit of the constitution, unless it could be contended that Congress had the right to divest itself of its legislative discretion, and virtually destroy itself. Is this Bank a public or private corporation? It is a Government fiscal agent, an agent of the Treasury Department, and the power to estab-

lish it is inferred from the clause in the constitution, conferring upon Congress that high attribute of sovereign power, to lay and collect taxes from the people. Did any Government ever divest itself of the power of regulating according to its own will, the collection, safe-keeping, and disbursement of its revenue, or transfer this right irrevocably to corporations? If Congress possessed this power, they could transfer the liberties of the country to a corporation.

Mr. B. then referred to a case decided in the Supreme Court, between Goazler and the corporation of Georgetown, in support of the principle for which he contended. The Reporter understood this to be a decision, that the corporation were not bound to execute an agreement into which they had entered with the lot holders by an ordinance for grading the streets, on the principle that such a gradation was a matter of public concern, regarding the interests of the citizens generally, and that, like a public law, might be repealed. It was not a subject of private grant; and on the same principle he held we had a perfect right to repeal or modify this charter whenever we thought it proper to do so.

But while he asserted this power, he admitted that it would be an extreme case in which he would be in favor of exercising it. If this bill is to be rushed through Congress when the country is not prepared for it; when the people have not asked for it; when no question has been made before the people on the subject, and in Virginia and North Carolina, even the Whig party, in the Presidential canvass, taking ground against it, as witness the speech of Mr. Badger, the present Secretary of the Navy, and the address of the Whig Convention in Virginia, and that this was the fact generally he would appeal from the Senator from Kentucky to Mr. Tyler, the official head of the party, if the measure was to be adopted under such circumstances, and especially if the gag was to be applied to that body, a proper regard to the interests of those we represented would prompt us to sound the cry of repeal throughout the land, and that question will be carried, unless the people of this country are willing to be transferred to the government of bank corporations.

He thought the doctrine, though an excellent one, of the inviolability of contracts, came with an ill grace from those who had, but a few months since, violated the contract of Blair and Rives, the Printers to the Senate. There was a clear and unequivocal case of contract, founded on a law of the land, the bond was signed, sealed, and delivered, and was approved of by your Secretary. And yet, in the face of all this, the Senate of the United States was faithless to its solemn contract, and Blair and Rives were dispossessed of their rights, and another Printer has since been elected.

He was firmly of the opinion, that the best thing the friends of the Bank could do would be to go home, and defer the passage of the bill

until the next session. Let them wait the result of the fall elections; and should there be a decided expression of the popular will in favor of the Bank, much as he was opposed to it, he would not be the first to move in the question of repeal.

Mr. CLAY, of Kentucky, said that when the conqueror of Continental Europe, the hero of Marengo and Ansterlitz, was in the zenith of his power, an old maiden lady of Baltimore expressed, in warm terms, her disapprobation of his conduct. Madam, said the Frenchman, with much gravity, to whom she was addressing her remarks, I am sorry you entertain such sentiments of the Emperor; I am sure he will be very much hurt when he hears of it. So the subscribers to the stock of this Bank would be very much hurt, when they heard the opinions of the honorable Senator as to the repealability of their charter. But these threats of repeal passed him by as the idle wind; he knew it would never be attempted to carry them into execution. But if he would desire the Senator and his party to be placed in a position which, above all others, would ruin them irretrievably, it would be for them to make this a question before the free, intelligent, and law-abiding people of this country. Here is a charter granted by Congress for twenty years, and on the faith of this pledge of Congress individuals have been induced to invest their funds in its stock. Let them make this question, and my life on it, they will receive a more overwhelming defeat than even that of November last. It was a monstrous proposition; and it need only to be stated, to receive the indignation of the public.

Mr. BUCHANAN said, the statement of the Senator from Kentucky had only to be stated to meet with universal indignation and reprobation. What was the proposition? That the liberties of the nation may be bartered away without the consent of the people: that Congress can divest itself of its constitutional functions, and confer them upon a banking corporation, by a law which they could subsequently neither modify nor repeal. This was the proposition, fairly stated. The Senator says he won't argue the proposition. Sir, he can't argue it. It does not admit of argument. To state it is to answer it. Suppose Congress should incorporate a great East India Company within the District, on which they would confer a monopoly of all the valuable trade to that portion of the world. Will any man, with the pulse of liberty beating in his heart, contend that there is no legislative power to repeal this odious monopoly, they remunerating individuals for any losses which they might sustain? Suppose the Legislature of New York should charter a company with the exclusive privilege of trading in the wheat and flour produced in that great State. Would the Senator contend that a subsequent Legislature could not annul that law? To contend for such a doctrine would be to

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assert that a Legislature can destroy itself, and transfer all its sovereign delegated powers to corporations. He had as great a respect as any man for private contracts, and the inviolability of chartered rights held by private individuals; but he contended that the doctrine asserted by the Senator from Kentucky was subversive of civil liberty, and was as convenient a mode of changing our form of Government as had ever been desired by its worse enemy.

It would be an insult to the memory of the great man who lately presided over the Supreme Court, to assert that he had ever asserted such a doctrine. Now what was that opinion? After reading the remarks of Chief Justice Marshall, which preceded his conclusion, he said: Now, sir, comes the principle, which I read the other day: "If the act of incorporation (of *Dartmouth College*) be a grant of political power—if it create a civil institution, to be employed in the administration of the Government—if, &c., &c., the subject is one in which the Legislature of the State may act according to its own judgment, unrestrained by any limitation of its power imposed by the Constitution of the United States."

And why? Because the subject of the contract is a sovereign power of Government, and not a mere private right.

Now, sir, continued Mr. B., I think I have shown that the principle asserted by me is necessarily the law, and that if this institution is one "to be employed in the administration of the Government," nay, in the execution of some of its most important functions, it is subject to amendment, modification, or repeal; and those who invest their money in its stock, will do so with that understanding. In case of repeal, they will have to rely for indemnity on the justice of Congress, under all the circumstances of the case.

#### TUESDAY, July 13.

At half-past ten o'clock, the usual prayer was said by the Chaplain, but there was not a quorum in the Senate.

Mr. BENTON stood up, and said that it was evident that under the operation of the rule requiring the Senate to commence its daily sessions at ten o'clock, and, allowing but one hour from that to eleven for the morning business, his friend (Dr. LINN) would to-day be restricted to less than half an hour in the delivery of his exposition of Whig principles and practices. There was no quorum: the President of the Senate was here; the Secretary and the Clerk were here, and the boss had been in for a few moments, but finding his hands were absent, he had left. He (Mr. BENTON) and some ten or twelve of his friends had had their prayers from the Chaplain; but the hands who were to erect the building had to go without any. If this was the sort of morning hour to be

allowed to the minority, he would advise his friends to do as he and Mr. Macon had been obliged to do on a former occasion, when a similar rule was enforced. Mr. Macon had voted against the rule, but, being a law-abiding man, when once it was established, he was determined to act up to it, and he came punctually to the moment. He (Mr. B.) followed close at his heels, and, after waiting patiently some time, and finding only six present, they did what a majority of those in attendance had a right to do, and what he (Mr. BENTON) would if this course is followed up, have done; they adjourned and went home, and those who came in after had the business to themselves, and the responsibility of their own rule, and action on that rule. He (Mr. BENTON) thought the few now present could do no better than to follow this example; and he would actually propose to do it if those who made the rule persisted in this course. If neither the boss nor his hands were here, how was the building to be carried on? There was no use in those who could only look on remaining.

The PRESIDENT of the Senate and the Secretary remarked to Mr. BENTON that they had been in attendance since ten o'clock.

Mr. BENTON said he was aware of that; but there was no quorum, and what could they do?

Shortly after the PRESIDENT took the chair, and the journal was read by the Secretary, thirteen Senators being present; but before the reading of the journal had been finished, there were twenty-four Senators in attendance.

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Mr. CALHOUN asked why had not the loan bill been taken up in the other House before the land bill? If the exigencies of the Treasury depended for relief on the loan bill, why was it kept in the background till the fate of the land bill was known? As to the sneers at the Treasury note scheme, they were no proof that it was not infinitely better, and if immediate relief were the only consideration, infinitely more expeditious and available than the loan bill. He could assure the Senator he was mistaken if he calculated on being able to obtain *immediate* relief for the Treasury from the loan bill. The Senate could not be made to pass it in a day, at the word of command. The Senator from Kentucky tells the Senate the other House has got before it. How has the other House got before the Senate? By a despotic exercise of the power of a majority. By destroying the liberties of the people in gagging their Representatives. By preventing the minority from the free exercise of its right of remonstrance. This is the way the House has got before the Senate. And now there was too much evidence to doubt that the Senate was to be made to keep up with the House by the same means.

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Mr. CLAY said the Senator wanted to know why the House had not taken up the loan bill before the land bill. He really could not tell him why; he must refer him to the House itself for an answer. With regard to the Senator's allusions to the control of the business in another branch of Congress by the majority, he (Mr. CLAY) was expecting every moment that the President of the Senate would call him to order, for it surely was not competent in this body to animadvert on the action of the other. But as he had indulged in anticipation, to put the matter beyond doubt, he (Mr. CLAY) would have the Senator to know that he would resort to the constitution, and act on the rights insured in it to the majority, by passing a measure that would insure the control of the business of the Senate to the majority. If he did not adopt the same means which had proved so beneficial in the other House, he would have something equally efficient to offer. He had no doubt of the cheerful adoption of such a measure when it should come before the Senate. So far from the rule being condemned, he would venture to say that it would be generally approved. It was the means of controlling the business, abridging long and unnecessary speeches, and would everywhere be hailed as one of the greatest improvements of the age. He thought it would be necessary to resort to similar means or some other, to give the majority a control of the business in the Senate. Look at the facts in this case. Here already three weeks and a half had been spent in amendment after amendment to this bill, being discussed and debated at as full length as if the whole bill was on its final passage. Yet if a proposition is urged to confine debate to the merits or demerits of each amendment, there is an outcry made about abridging the liberty of speech. Was such a course as that adopted on the other side proper? Was it such as would be tolerated by the American people? Did Senators on the other side think that the people would complain that speeches were cut off which would prevent the public business from being carried on? No such thing: but they think they know the people. Now, he knew the people too, and he knew they were not going to complain about the abridgment of long speeches in Congress. They want their business to be done—they want action, and not so much talk about it. The people will be very glad to find they can get the measures they are so impatient for, carried through without the useless delay of waiting for long speeches to be delivered. He recollected once meeting with one of the most intelligent and truly sensible men it had ever been his good fortune to be acquainted with, and he was struck with a remarkable saying of his; it was, that he considered it utterly impossible for any man, he did not care what his genius was, to speak sensibly or usefully on any topic for more than a quarter of an hour. What, then, he (Mr. CLAY) would say, was the use of such speeches as are here made? There were

two hundred and forty members in the other House; if each was to consume an hour, when would a session terminate? and yet the restriction would be complained of. The greatest grievance complained of by the people with regard to Congress, is the delay of public business by long speeches.

Mr. KING said the Senator complained of three weeks and a half having been lost in amending this bill. Was not the Senator aware that it was himself and his friends had consumed most of that time? But now that the minority had to take it up, the Senate is told there must be a gag law. Did he understand that it was the intention of the Senator to introduce that measure?

Mr. CLAY. I will, sir; I will.

Mr. KING. I tell the Senator, then, that he may make his arrangements at his boarding house for the winter.

Mr. CLAY. Very well, sir.

Mr. KING. Did not the Senator, in the beginning of the session, press forward his favorite measure, the Bank bill, by "removing the rubbish," as he called the Sub-Treasury, declaring that it could not be delayed a moment, in order to give to the people this Bank bill? The Sub-Treasury was repealed to make room for this splendid Bank; and now that was to be set aside, all at once, to make room for something else, while the delay was to be charged upon them. The loan bill was now to be forced. It was the Bank bill at the beginning of the session. If there was any real necessity for it then, it existed still. He, (Mr. KING,) to test that point, was ready, and he would undertake to make the proposition for his friends, to get through with their amendments to-day and to-morrow, and let the bill go to the vote on Saturday, or Monday at farthest. No, no: that would not do. The Senator did not now want to risk that. Some of his friends were absent, they must be waited for. With whom, then, was the delay? The Senator from Kentucky had forgotten his own course and that of his friends when they were in the minority. Look at the panic session. Did they not consume six months in debating every measure, however trifling in itself, for political effect? And were he and his friends to be restricted from presenting their views on measures so momentous?

He (Mr. KING) was truly sorry to see the honorable Senator so far forgetting what is due to the Senate as to talk of coercing it by any possible abridgment of its free action. The freedom of debate had never yet been abridged in that body since the foundation of this Government. Was it fit or becoming, after fifty years of unrestrained liberty, to threaten it with a gag law? He could tell the Senator that, peaceable a man as he (Mr. KING) was, whenever it was attempted to violate that sanctuary, he, for one, would resist that attempt even unto death. Perhaps all this was uncalled for; but the occasion would be some excuse. He

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was for testing the question of the Senator's power to carry his Bank bill. Let it be called up now, and let the country judge between the Senator and the Opposition, whose was the fault of delay. He (Mr. KING) would undertake to say that there should be no delay on the part of his friends. Let this Bank bill be disposed of at once, and then the Senator can take up his other measures in their due order. Much as he detested a National Bank, he would not create delay by taking captious exceptions; but he and his friends ought to deliberate first, and act afterwards.

Mr. BENTON would take this opportunity to say a word on this menace, so often thrown out, of a design to stifle debate, and stop amendments to bills in this chamber. He should consider such an attempt as much a violation of the constitution, and of the privileges of the chamber, as it would be for a military usurper to enter upon us, at the head of his soldiery, and expel us from our seats.

It is not in order, continued Mr. B.,—it is not in order, and would be a breach of the privilege of the House of Representatives, to refer to any thing which may have taken place in that House. My business is with our own chamber, and with the threat which has so often been uttered on this floor, during this extra session, of stifling debate, and cutting off amendments, by the introduction of the previous question.

With respect to debates, Senators have a constitutional right to speak; and while they speak to the subject before the House, there is no power anywhere to stop them. It is a constitutional right. When a member departs from the question he is to be stopped: it is the duty of the Chair—your duty, Mr. President, to stop him—and it is the duty of the Senate to sustain you in the discharge of this duty. We have rules for conducting the debates, and these rules only require to be enforced in order to make debates decent and instructive in their import, and brief and reasonable in their duration. The Government has been in operation above fifty years, and the freedom of debate has been sometimes abused, especially during the last twelve years, when those out of power made the two houses of Congress the arena of political and electioneering combat against the Democratic Administration in power. The liberty of debate was abused during this time; but the Democratic majority would not impose gags and muzzles on the mouths of the minority; they would not stop their speeches; considering, and justly considering, that the privilege of speech was inestimable and inattackable—that some abuse of it was inseparable from its enjoyment—and that it was better to endure a temporary abuse than to incur a total extinction of this great privilege.

But, sir, debate is one thing, and amendments another. A long speech, wandering off from the bill, is a very different thing from a short amendment, directed to the texture of the bill itself, and intended to increase its bene-

ficial, or to diminish its prejudicial, action. These amendments are the point to which I now speak, and to the nature of which I particularly invoke the attention of the Senate.

By the Constitution of the United States, each bill is to receive three readings, and each reading represents a different stage of proceeding, and a different mode of action under it. The first reading is for information only; it is to let the House know what the bill is for, what its contents are; and then neither debate nor amendment is expected, and never occurs, except in extraordinary cases. The second reading is for amendments and debate, and this reading usually takes place in Committee of the Whole in the House of Representatives, and in *quasi* committee in the Senate. The third reading, after the bill is engrossed, is for passage; and then it cannot be amended, and is usually voted upon with little or no debate. Now, it is apparent that the second reading of the bill is the important one—that it is the legislative—the law making—reading; the one at which the collective wisdom of the House is concentrated upon it, to free it from defects, and to improve it to the utmost—to illustrate its nature, and trace its consequences. The bill is drawn up in a committee; or it is received from a department in the form of a *projet de loi*, and reported by a committee; or it is the work of a single member, and introduced on leave. The bill, before perfected by amendments, is the work of a committee, or of a head of a department, or of a single member; and if amendments are prevented, then the legislative power of the House is annihilated; the edict of a Secretary, of a committee, or of a member, becomes the law, and the collected and concentrated wisdom and experience of the House has never been brought to bear upon it. The previous question cuts off amendments; and, therefore, neither in England nor in the United States, until now, in the House of Representatives, has that question ever been applied to bills in Committee of the Whole on the second reading. This question annihilates legislation, sets at naught the wisdom of the House, and expunges the minority. It is always an invidious question, but seldom enforced in England, and but little used in the earlier periods of our own Government. It has never been used in the Senate at all, never at any stage of the bill; in the House of Representatives it has never been used in the second reading of a bill, in Committee of the Whole, until the present session—this session, so ominous in its call and commencement, and which gives daily proof of its alarming tendencies, and of its unconstitutional, dangerous, and corrupting measures. The previous question has never yet been applied in this chamber; and to apply it now, at this ominous session, when all the old Federal measures of fifty years ago are to be conglomerated into one huge and frightful mass, and rushed through by one convulsive effort; to apply it now, under such circumstances, is to

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muzzle the mouths, to gag the jaws, and tie up the tongues of those whose speeches would expose enormities which cannot endure the light, and present to the people these ruinous measures in the colors in which they ought to be seen.

The opinion of the people is invoked—they are said to be opposed to long speeches, and in favor of action. But, do they want action without deliberation, without consideration, without knowing what we are doing? Do they want bills without amendments—without examination of details—without a knowledge of their effect and operation when they are passed. Certainly the people wish no such thing. They want nothing which will not bear discussion. The people are in favor of discussion, and never read our debates with more avidity than at this ominous and critical extraordinary session. But I can well conceive of those who are against those debates, and want them stifled. Old sedition law Federalism is against them: the cormorants who are whetting their bills for the prey which the acts of this session are to give them, are against them: and the advocates of these acts, who cannot answer these arguments, and who shelter weakness under *dignified* silence, they are all weary, sick, and tired of a contest which rages on one side only, and which exposes at once the badness of their cause and the defeat of its defenders. Sir, this call for action! action! action! (it was well said yesterday) comes from those whose cry is, plunder! plunder! plunder!

The previous question, and the old sedition law, are measures of the same character, and children of the same parents, and intended for the same purposes. They are to hide light—to enable those in power to work in darkness—to enable them to proceed unmolested—and to permit them to establish ruinous measures without stint, and without detection. The introduction of this previous question into this body, I shall resist as I would resist its conversion into a Bed of Justice—*Lit de Justice*—of the old French monarchy, for the registration of royal edicts. In these Beds of Justice—the Parliament formed into a Bed of Justice—the Kings before the Revolution caused their edicts to be registered without debate, and without amendment. The King ordered it, and it was done—his word became law. On one occasion, when the Parliament was refractory, Louis XIV. entered the chamber, booted and spurred—a whip in his hand—a horsewhip in his hand—and stood on his feet until the edict was registered. This is what has been done in the way of passing bills without debate or amendment, in France. But, in extenuation of this conduct of Louis XIV. it must be remembered that he was a very young man when he committed this indiscretion, more derogatory to himself than to the Parliament which was the subject of the indignity. He never repeated in his riper age, for he was a gentleman, as well as a king, and in a fifty years' reign never

repeated that indiscretion of his youth. True, no whips may be brought into our legislative halls to enforce the gag and the muzzle, but I go against the things themselves—against the infringement of the right of speech—and against the annihilation of our legislative faculties by annihilating the right of making amendments. I go against these; and say that we shall be nothing but a bed of justice for the registration of Presidential, or partisan, or civil chieftain edicts, when debates and amendments are suppressed in this body.

Sir, when the previous question shall be brought into this chamber—when it shall be applied to our bills in our *quasi* committee—I am ready to see my legislative life terminated. I want no seat here when that shall be the case. As the Romans held their natural lives, so do I hold my political existence. The Roman carried his life on the point of his sword; and when that life ceased to be honorable to himself, or useful to his country, he fell upon his sword, and died. This made of that people the most warlike and heroic nation of the earth. What they did with their natural lives, I am willing to do with my legislative and political existence: I am willing to terminate it, either when it shall cease to be honorable to myself, or useful to my country; and that I feel would be the case when this chamber, stripped of its constitutional freedom, shall receive the gag and muzzle of the previous question.

Mr. CLAY said, as to the proposition of the Senator from Alabama to test the question on the Bank bill, now or in a day or two, did he not perceive that in the very remarks he had made himself, he had given a very good reason why a fair test could not be taken; that was, the absence of some Senators?

Mr. KING said he believed there was no one absent but the Senator from Virginia, (Mr. RIVES.)

Mr. CLAY said that Senator knew that one friend had been called away by the indisposition of his family, and the Senator from Virginia, too, was absent, though he did not know, as far as that bill was concerned, whether it would be considered a cause of great lamentation. He (Mr. CLAY) would, however, say that after all, he thought the gentlemen on the other side would find it was better to go on with the public business harmoniously and good humoredly together, and all would get along better. He would remind the gentlemen of their own course when in power, and the frequent occasions on which the minority then acted with courtesy in allowing their Treasury note bills to pass, and on various other occasions. He thought it was understood that they were to go into Executive session, and afterwards take up the loan bill. He should feel it his duty to take measures to give the majority the control of the business, *maugre* all the menaces that had been made. What had been their course when in a minority? When the chairman of the Committee on Finance brought for-

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ward his measures for the issue of Treasury notes, the necessity of the case was pleaded, and in no instance was there more than an hour's debate on the bills. With regard to the Treasury note system, it was the policy of the last Administration, while a loan would be the policy of the present. They preferred the good old-fashioned mode of doing business, doubting the expediency of the other; and they had reason to think that something like a reciprocal kindness would have been exercised, particularly when the condition of the Treasury had been stated.

Mr. CALHOUN rose to reply. [Here it was observed the hour had expired.] Not yet, (said Mr. C.,) there is a minute, and I avail myself of that minute. Mr. C. said he thought this business closely analogous to the alien and sedition laws. Here was a palpable attempt to infringe the right of speech. He would tell the Senator that the minority had rights under the constitution which they meant to exercise, and let the Senator try when he pleased to abridge those rights, he would find it no easy job. When had that side of the Senate ever sought to protract discussion unnecessarily? [Cries of "Never! never!"] Where was there a body that had less abused its privileges? If the gag law was attempted to be put in force, he would resist it to the last. As judgment had been pronounced, he supposed submission was expected. The unrestrained liberty of speech, and freedom of debate, had been preserved in the Senate for fifty years. But now the warning was given that the yoke was to be put on it which had already been placed on the other branch of Congress. There never had been a body in this, or any other country, in which, for such a length of time, so much dignity and decorum of debate had been maintained. It was remarkable for the fact, the range of discussion was less discursive than in any other similar body known. Speeches were uniformly confined to the subject under debate. There could be no pretext for interference. There was none but that of all despotisms. He would give the Senator from Kentucky notice to bring on his gag measure as soon as he pleased. He would find it no such easy matter as he seemed to think.

The morning hour having expired,

Mr. LINN asked for a moment to make a few remarks.

The CHAIR said it was not in the power of the Chair to give leave.

Mr. LINN said he would not occupy more than a minute or two.

The CHAIR said there was no discretionary power—the usual course was to ask the leave of the Senate.

Mr. LINN. Well, sir, I ask the leave of the Senate.

Leave was given.

Mr. LINN said it was an old Scottish proverb, that threatened people live longest. He hoped the liberties of the Senate would yet outlive

the threats of the Senator from Kentucky. But, if the lash was to be applied, he would rather it was applied at once than to be always threatened with it. There is great complaint of delay; but who was causing the delay now growing out of this threat? Had it not been made, there would be no necessity for repelling it. He knew of no disposition on the part of his friends to consume the time that ought to be given to the public business. He had never known his friends, while in the majority, to complain of discussion. He knew very well, and could make allowances, that the Senator from Kentucky was placed in a very trying situation. He knew, also, that his political friends felt themselves to be in a very critical condition. If he brought forward measures that were questionable, he had to encounter resistance. But he was in the predicament that he had pledged himself to carry those measures, and, if he did not, it would be his political ruin. He had every thing on the issue, hence his impatience to pronounce judgment against the right of the minority to discuss his measures.

Mr. CLAY hoped the Senator would allow him to say that on no occasion had he offered to pronounce judgment.

Mr. LINN said he had understood him to say that if the Senate was disposed to do as he thought it ought to do, they would adopt the same rule as the other House.

Mr. CLAY said, certainly he meant that.

Mr. LINN said, very well; if the Senator was in such a critical condition, as to be obliged to say he cannot get his measures through without cutting off debate, why does he not accept the proposition of taking the vote on his Bank bill on Monday? If he brings forward measures that have been battled against successfully for a quarter of a century, is it any wonder that they should be opposed, and time should be demanded to discuss them? The Senator is aware that Whiggery is dying off in the country, and that there is no time to be lost; unless he and his friends pass these measures they are ruined. All he should say to him was, pass them if he could. If, in order to do it, he is obliged to come on with his gag law, he (Mr. LINN) would say to his friends, let them meet him like men. He was not for threatening, but if he was obliged to meet the crisis, he would do it as became him. The rules adopted were always for themselves, and against the minority. What was this loan bill? Was it, like Treasury notes, to pay out for claims due? No, it was to anticipate claims not due. Why not, then, hold it over, and meet the claims due in the shortest and most obvious way? The hurry is so great, that to get it passed, we are threatened with a measure which will consume a whole week in discussion.

Mr. CLAY, from his seat, asked, Did the Senator mean to say a week would be consumed in Executive session?

Mr. LINN said he did not; he meant that a



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week would be consumed in the discussion of the gag law.

Mr. BERRIEN moved to go into Executive session.

On this a debate arose as to a point of order under the new rule, which occupied some ten or fifteen minutes, Messrs. CALHOUN, CLAY, KING, and ALLEN, participating.

The CHAIR decided the motion to go into Executive business to be in order.

Mr. CALHOUN took an appeal from the decision, but withdrew it at the suggestion of friends behind him.

Mr. CALHOUN asked where was the necessity of going into Executive business then? Could they not go on with the business before the Senate for some two or three hours, and go into Executive session at the close of the day?

Mr. BERRIEN did not think it a proper subject to discuss. Did not feel himself at liberty to state reasons.

Mr. CALHOUN would ask if the reasons were very urgent.

Mr. BERRIEN could only say such was his impression.

The Senate then went into Executive session; and, after remaining therein for a considerable time,

Adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, July 21.

##### *Home Squadron.*

A BILL making appropriation for the pay, subsistence, &c., of a home squadron.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, for the pay and subsistence, increase and repairs, medicines, and contingent expenses, of two frigates, two sloops, two small vessels, and two armed steamers, to be employed as a home squadron, the sum of seven hundred and eighty-nine thousand three hundred and ten dollars is hereby appropriated, to be paid out of any money in the Treasury not otherwise appropriated.

Mr. COLES asked the yeas and nays; which were ordered, and, being taken, were—yeas 184, nays 8; so the bill was passed, and

The House adjourned

#### IN SENATE.

SATURDAY, July 24.

##### *The Bankrupt Bill.*

This bill was read the third time, and on the question, "Shall this bill pass?"

Mr. TALLMADGE rose, and spoke for upwards of an hour in favor of the passage of the bill. He expressed the hope that there might be great unanimity in the vote, for the sake of the moral influence it would have on the measure. He was anxious, in this instance, that Senators should soar above the atmosphere of party, and unite in favor of a law alike called

for by the dictates of sound policy and correct judgment.

Mr. BUCHANAN said he objected to the bill before the Senate as a *voluntary bankrupt law from beginning to end*, and retrospective in its operation on all obligations. He referred to the result under former experiments of such laws, and gave the history of the bankrupt law of 1800. It was passed for a limited period. Before its term had half run out, it was repealed by a vote of 99 to 18 in the House—in the Senate by 17 to 12. In Pennsylvania an insolvent law had passed in the nature of a bankrupt act, and it was unanimously repealed the next year. The calamities of 1819–1820 produced another attempt to establish a bankrupt system. The objections which he then urged against the proposed law, in conjunction with Mr. Lowndes, was, that the machinery of the General Government was incompetent to such a system over so wide a jurisdiction as that of the Union. The objections then urged were as applicable to the present measure. It was impossible to carry it into effect without multiplying the courts of the United States to a very great extent. There must be ten times the judicial force now existing. There must be a sort of judicial consolidation throughout the Union. As it regards remote debtors situated in distant States, the impracticability of the attendance of their creditors would make this law a *sponge of all liabilities*, without the possibility of guarding against frauds, or of protecting in any way the interests of creditors. He was willing to have a bankrupt law which would execute itself. A composition authorizing the courts to discharge debtors on their getting the consent of the majority in number and value of their creditors, and upon the surrender of all the means of the debtor for the benefit of the whole of his creditors. He would prophesy that this bankrupt bill would produce the greatest excitement ever witnessed in the country. It would be repealed in as short a time as that of 1800. In the mean time, there would be a rush upon the courts that would overwhelm those tribunals with business, and so clog them as to arrest the execution of their ordinary functions.

Mr. WALKER replied to Mr. BUCHANAN's arguments, contending for the principles of the bill and its details. He pointed to the bankrupt law of Pennsylvania, the great complaint against which was, that it was compulsory and partial in its bearing; and that was the reason why it had been repealed. He denied that the passage of this bill could have a tendency to expand credit; but, on the contrary, would have a reverse action. He thanked the Senator for the sympathy he had expressed for unfortunate debtors; but he would rather have had his vote than his sympathy; and he should have respected that sympathy much more if the Senator had not made the powerful speech he did against them. If this law was not passed, the thousands of unfortunate debtors in this

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country would either have to wear the chains of the slave, or become exiles from their native land. The argument that the law could not be executed, was an argument against the Constitution of the United States. There was no difficulty whatever in the execution of the law—all the details were left to commissioners, and as to the testimony of witnesses at a distance, depositions could be taken. As to the law of 1800, on the repeal of which so much stress was laid, the principal cause of objection against it was that it was a compulsory law. As to the Philadelphia law of 1812, it conferred privilege on the citizens of Philadelphia in the discharge of their obligations which was denied to citizens of the interior of the State, and this privilege was considered so odious as to lead to the repeal of the law. Instead of being a stimulus to excessive speculation, he contended that its operation would be precisely the reverse. In stating the unequal operation of State laws, which released debtors in some States, while they who were equally honest and equally unfortunate, remained bound in others, the strongest argument was adduced in favor of the passage of a general bankrupt law, uniform in its operation. No man could doubt that Congress has the power to grant the relief so loudly called for, and the States had not the power.

Mr. BERRIEN replied at great length to the arguments of Mr. BUCHANAN, defending the principles and details of the bill. He spoke of that feature which took from the creditor the consent to release, and placed the debtor under the majesty of the law, contending that if the debtor be free from stain, and has made an honest surrender of all his effects, he is placed under an unbiassed arbiter, the representative of the law, which he thought was a great improvement over all prior measures of the kind.

Mr. PRENTISS said, as the bill involved very important principles, he would move that the question be taken by yeas and nays.

The yeas and nays having been ordered on the passage of the bill, the vote stood as follows:

YEAS.—Messrs. Barrow, Bates, Berrien, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Henderson, Huntington, Ker, Merrick, Miller, Morehead, Mouton, Phelps, Porter, Simmons, Smith of Indiana, Southard, Tallmadge, Walker, White, Williams, Woodbridge, and Young—26.

NAYS.—Messrs. Allen, Archer, Bayard, Benton, Buchanan, Calhoun, Clay of Alabama, Cuthbert, Fulton, Graham, King, Linn, McRoberts, Nicholson, Pierce, Prentiss, Rives, Sevier, Smith of Connecticut, Sturgeon, Tappan, Woodbury, and Wright—23.

So the bill was passed.

MONDAY, July 26.

*Fiscal Bank of the United States.*

The orders of the day being called, the Fiscal Bank bill came up on the further consideration  
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of the amendments adopted in Committee of the Whole.

Mr. CLAY, of Kentucky, said he wished to propose some amendments to the amendment providing that the Bank shall not increase the amount of debts due to it when the notes in circulation exceed three times the amount of specie in its vaults. He wished to modify it, so as to provide that the Bank shall not, "knowingly," increase the amount of debts due to it, when the notes in circulation exceed three times the amount of specie in its vaults, and whenever such excess takes place, "it shall be the duty of said corporation to return to this proportion, with as little delay as will be safe and practicable." The parent Bank might not be aware at a given moment of the state of the branches, and might, without knowing it, incur a forfeiture of charter. It would answer every purpose, if as soon as the Bank could ascertain the proportions of circulation and specie, it should, if there was an excess of circulation, call it in gradually.

The verbal amendments suggested by Mr. CLAY, were then adopted.

The committee's amendment prohibiting the directors of any office of discount and deposit from becoming borrowers to a larger amount than \$10,000 each, next came under consideration.

Mr. CLAY, of Alabama, regarded the present motion as portentous in its character. Its effect would be to open the Bank, with all its immense capital, to those who managed its affairs, without limitation or restriction. As the section now stood, including the proviso, the liability of each director may amount to a sum "not exceeding ten thousand dollars." In other words, every director may borrow \$10,000 of the Bank, under the section as it stands; and, from the experience of the past, Mr. C. doubted not most of them would avail themselves of the privilege. Was it not most unreasonable for the Senator from Kentucky (Mr. CLAY) to desire to remove this restriction altogether, and suffer directors to borrow as much as they thought proper? Remove this restriction, and there would be nothing to prevent them from dividing out the entire capital of the Bank amongst themselves—and, at some of the branches, there was little doubt they would do it. He (Mr. C.) had, on another occasion, alluded to the fact, that he had known an instance, when the directors of a bank, with a capital of two millions of dollars, had loaned to themselves, their relations, and those connected with them in business, to the amount of \$2,800,000—about \$800,000 more than the capital actually paid in! If the motion of the Senator from Kentucky, destroying the amendment made in Committee of the Whole, prevailed, what would remain to prevent the directors of this Bank from perpetrating a similar outrage? Had gentlemen estimated the amount which might be borrowed by the directors of all the branches under the amendment as it

now stood? If they had not, he hoped they would do so before voting on the motion of the Senator from Kentucky. Should there be established only one branch in each of the States and Territories, the number would be twenty-nine; and the aggregate number of directors of all the branches (allowing nine to a branch) would be two hundred and sixty-one; and \$10,000 to each director would amount to \$2,610,000—equal to more than a twelfth part of the entire capital of the Bank. This would certainly be enough for the directors of a bank, in all conscience. Yes, it would be more than enough. Experience had shown, that it would be better to restrain them altogether. It was his (Mr. O.'s) opinion that bank directors should never be borrowers of the institution whose affairs they managed. They ought not to be men who stood in need of accommodations. The tendency was to corruption and mismanagement, as had been fully demonstrated by past experience. He called on gentlemen to look at the history of the late Bank of the United States—to see the millions which had been loaned to officers and directors—and the manner in which they had been suffered to extinguish those vast debts by transfers of Texan bonds, railroad stocks, and other stocks of every possible description at their nominal amount, when their real value, in many instances, was not more than 25 cents in the dollar. It was thus that the stockholders and creditors of the Bank had been defrauded of their capital and their just rights. These were facts against which we should not close our eyes. We need not expect men have become more honest or incorruptible. The best way to keep men honest is to "lead them not into temptation."

Mr. O. said the Senator from Kentucky (Mr. CLAY) had declared his purpose to follow up this motion by another, to disagree to the amendment which restrained members of Congress from borrowing. He deprecated this, if possible, more than the motion more immediately before the Senate. Congress was to appoint committees to examine the Bank and branches—members of Congress were to constitute those committees—and, in certain contingencies, Congress was to order a *scire facias* against the Bank to annul its charter. Members of Congress were to be the examiners and the judges to pass on the conduct of the Bank. Mr. O. asked if such considerations should not restrain them becoming debtors of the Bank? Was there no danger that members under heavy obligations to the Bank, perhaps to an amount sufficient to swallow up their whole estates, would be inclined to forbear, to withhold the awards of strict justice, under such circumstances? Nay, sir, is there not much danger that members, whose indebtedness places them in the power, and at the mercy of the board of directors, may be deterred from the faithful performance of their duties? He

said no man of observation would hesitate to answer these questions in the affirmative. Common delicacy forbade such a state of things.

Mr. O. referred to the enormous loans made to members of Congress by the late Bank of the United States, as additional ground for restricting members from all manner of accommodation. The war of the late United States Bank upon the Government, might be said to have commenced shortly after Gen. Jackson's first Message to Congress—in December, 1829. In the year 1830—the very next year—it loaned \$192,101 to fifty-two members of Congress. In the year 1831, it loaned to fifty members more than double the sum lent the preceding year—that is, \$362,100. In the year 1832—in the year in which the Bank war reached its crisis—in the year in which it obtained a majority of both Houses of Congress in favor of its recharter, which bill was vetoed by Gen. Jackson—yes, sir, in the memorable year 1832 its loans to forty-four members of Congress amounted to \$478,069—averaging almost eleven thousand dollars each. What influence may have been produced in favor of the passage of the bill for its recharter by this extraordinary liberality, it is impossible to determine. The names of the Congressional borrowers have never been fully disclosed, and perhaps never will be—and it is now more than likely, whilst many of the guilty have escaped censure, many of those who were innocent suffered by unjust suspicions. He said this might be the case again: the affairs of the Bank were still to be kept secret—a majority of the Senate has refused to give publicity to its proceedings in every possible form we could propose—and, last of all, they have struck out, or rather disagreed to an amendment, made in Committee of the Whole, which authorized any ten stockholders to examine its proceedings by themselves or agent. Mr. O. appealed to Senators, not only for the sake of the better management of the Bank, but for the protection of their own reputations, not to suffer members of Congress to borrow at all. It was the only efficient safeguard in both points of view. He said, if the purposes of the Senator from Kentucky were accomplished, the doors would be thrown wide open to directors and members of Congress without stint—a field of corruption would be presented, without one single obstacle to the perpetration of bribery and fraud the most execrable, and most ruinous to public interest and public morals.

The CHAIR said the question was on striking out the restriction of loaning not more than \$10,000 each to directors of offices of discount and deposit.

The question was then taken, and the amendment of the committee rejected, as follows:

YEAS.—Messrs. Allen, Benton, Buchanan, Calhoun, Clay of Alabama, Cuthbert, Fulton, King, Linn, McRoberts, Mouton, Nicholson, Pierce, Rives,

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*Fiscal Bank of the United States.*

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Sevier, Smith of Connecticut, Sturgeon, Tappan, Walker, Williams, Woodbury, Wright, and Young—23.

NAYS.—Messrs. Barrow, Bates, Berrien, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Huntington, Ker, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Prentiss, Preston, Simmons, Smith of Indiana, Southard, Tallmadge, White, and Woodbridge—25.

Mr. CLAY opposed the amendment in the same fundamental rule, providing that no note or bill of which any member of either House of Congress of the United States, is maker, drawer, endorser, acceptor, or otherwise a party, shall be discounted. He thought it was a restriction, injurious not only to members of Congress, but to those who had the names of members on their paper. He took a great distinction between looseness of exposure, and the moral power of examination of the inmost recesses of the Bank, in which fact of power lay the great restriction.

Mr. WALKER said, to remove the Senator's objections, he would propose a modification, to provide that no note should be discounted by a member of Congress. Would the Senator compromise? He had before compromised, and on this ground they might now meet.

Mr. CLAY said it would be a great improvement, but the amendment would still be open to objection, as an unreasonable interdiction to members of Congress. He would vote for the amendment, if the Senator would offer it, though he should be afterwards obliged to vote against the whole amendment.

Mr. WALKER then moved to strike out the amendment and insert the proviso, that no note or bill shall be discounted for any member of either House of Congress.

Mr. BUCHANAN looked upon the disposition now evinced to sweep out the few salutary checks and guards effected in committee by the Democratic side of the chamber, as matter of fearful omen. He held up to view the monstrous spectacle of a Legislature—on whom the scrutiny of a Bank's abuses depended, and to which the community must look for redress of wrongs perpetrated by the institution—itsself in the power of the Bank, in consequence of a great portion of the members holding money at its will, which they might be unable to pay—the spectacle of a people contending with an institution whose policy would be to oppress them, relying on Representatives secretly in the pay of the Bank. This would reduce to mockery all pretence of responsibility in the moneyed power, which would hold the prices of property—the control of the currency and commerce of the country in its hands—and with these powers, that of legislation would be associated, because the power to make the members of Congress rich or poor, at pleasure, will be sufficient at all times to give the casting vote on any question of importance in Congress.

Mr. CLAY said the directors of the Bank were not to have any loans, and therefore they would have no sympathy with the directors of the branches.

Mr. CUTHBERT dwelt on the propriety of the majority adopting the amendments, of a just nature, offered by the Opposition, in order to avoid all idea of the Bank being a political institution.

By general consent, the amendment of the committee was modified by adopting, unanimously, the amendment proposed by Mr. WALKER, who then, at some length, advocated the amendment as modified.

Mr. BENTON then read from the report of the investigation of the proceedings of the late Bank, a statement showing the amount of its loans to members of Congress, editors of newspapers, &c.

Mr. CLAY further opposed the amendment. What was the principle contained in it? It was that members of Congress should not share in the benefits of an institution to be created by their votes. On the same principle, it might be supposed that they voted to reduce the tariff, for the purpose of getting their clothing cheaper.

Messrs. CUTHBERT and LINN advocated the amendment.

Mr. PIERCE said it was apparent that the important amendments adopted in the committee were to be stricken out in the Senate, and he feared that it was equally certain that the bill was to become a law. His thorough conviction was (he would rejoice should it prove erroneous) that the only hope—the only protection for the country would be in *repeal*.

The State which he had the honor to represent, had recently asserted, through its Legislature, the power of *repeal*, and had declared its opinion that the highest interests of the country would imperiously demand the exercise of that power. He would undertake to answer for the alacrity that would be manifested in that State in unfurling the banner of *repeal*, and for the steadiness and perseverance with which her sons would stand by and sustain it. It would wave in every valley and upon every hill top. In reply to the remark that opinions would not be changed by argument, he (Mr. P.) would say, that gentlemen on his side of the chamber would not be diverted from this important amendment by any display of wit, or any far-fetched comparisons, which, by the way, had not even the slight weight of distant analogy.

It was idle—if it were not offensive, he would say absurd—for gentlemen to discourse here upon the *incorruptibility* of members of Congress. They were like other men—no better, he believed no worse. They were subject to like passions, influenced by like motives, and capable of being reached by similar appliances. History affirmed it. The experience of past years afforded humiliating evidence of the fact.

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Were we wiser than our fathers? Wiser than the most sagacious and patriotic assemblage of men that the world ever saw? Wiser than the framers of the constitution? What protection did they provide for the country against the *corruptibility* of members of Congress? Why, that no member should hold any office, however humble, which should be created, or the emoluments of which should be increased, during his term of service. How could the influence of a petty office be compared with that of the large *bank accommodations* which had been granted and would be granted again? And yet they were to be told, that in proposing this guard for the whole people, they were fixing an ignominious brand upon themselves and their associates. It seemed to him, that such remarks could hardly be serious; but whether sincere or otherwise, they were not legislating for themselves—not legislating for *individuals*—and he felt no apprehension that the mass, whose rights and interests were involved, would consider themselves aggrieved by such a brand.

He read from the Bank report presented to the Senate in 1834, by the present President of the United States, "Senate Documents, second session, twenty-third Congress," page 320. From that document it appeared that in 1831 there was loaned to *fifty-nine* members of Congress, the sum of three hundred and twenty-two thousand one hundred and ninety-nine dollars. In 1832, the year when the Bank charter was arrested by the veto of that stern old man who occupied the house and hearts of his countrymen, there was loaned to *fifty-four* members of Congress, the sum of four hundred and seventy-eight thousand and sixty-nine dollars. In 1833, the memorable panic year, there was loaned to *fifty-eight* members, three hundred and seventy-four thousand seven hundred and sixty-six dollars. In 1834, hope began to decline with the Bank, and so, also, did its line of discounts to members of Congress; but even in that year the loan to *fifty-two* members amounted to two hundred and thirty-eight thousand five hundred and eighty-six dollars.

Mr. CLAY said the greater part of the loans were made by those opposed to the Bank.

Mr. BUCHANAN had no doubt of that.

The question was then taken, and the amendment as modified concurred in, as follows:

YEAS.—Messrs. Allen, Archer, Benton, Buchanan, Calhoun, Clay of Alabama, Outhbert, Fulton, King, Linn, McRoberts, Mouton, Nicholson, Pierce, Preston, Rives, Sevier, Smith of Connecticut, Sturgeon, Tappan, Walker, Williams, Woodbury, Wright, and Young—25.

NAYS.—Messrs. Barrow, Bates, Berrien, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Henderson, Huntington, Ker, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Simmons, Smith of Indiana, Southard, Tallmadge, White, and Woodbridge—24.

WEDNESDAY, July 28.

*Fiscal Bank of the United States.*

The question was about being put upon the passage of the bill, when

Mr. HENDERSON rose in explanation of the vote he would give on this bill. He had yesterday, when the amendment of the Senator from Kentucky was introduced, left the chamber, and his name was not recorded in the yeas and nays on its adoption. To that amendment he was irreconcilably opposed, and would have voted against it had he remained in his seat. That amendment, however, having been adopted and incorporated with the bill, he would, with this explanation, vote for it.

The question was then taken on the passage of the bill, and decided in the affirmative—as follows:

YEAS.—Messrs. Barrow, Bates, Bayard, Berrien, Choate, Clay of Kentucky, Dixon, Evans, Graham, Henderson, Huntington, Ker, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Prentiss, Preston, Simmons, Smith of Indiana, Southard, Tallmadge, White, and Woodbridge—26.

NAYS.—Messrs. Allen, Archer, Benton, Buchanan, Calhoun, Clay of Alabama, Fulton, King, Linn, McRoberts, Mouton, Nicholson, Pierce, Rives, Sevier, Smith of Connecticut, Sturgeon, Tappan, Walker, Williams, Woodbury, Wright, and Young—23.

So the bill was passed.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, July 28.

*Senate's Bank Bill.*

A message was received from the Senate, through Asbury Dickins, Esq., Secretary, stating that that body had passed a bill to incorporate the subscribers to a Fiscal Bank of the United States; and asking the concurrence of this House therein.

On motion of Mr. SERGEANT, the bill had its first and second reading, was referred to a Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. WISE expressed his hope that it would be considered at as early a day as possible.

Mr. SERGEANT concurred in this desire.

Mr. PICKENS inquired which bill would have the precedence, that from the Senate, or the bill which had been reported to the House from the Committee of Ways and Means?

The CHAIR replied that would be for the Committee of the Whole to determine.

Mr. PICKENS knew that: but wished to understand which of the two bills the gentleman from Pennsylvania meant to press?

Mr. SERGEANT said, in reply, he should prefer the bill from the Senate: though he would not be understood to say that it might not need some amendments.

Mr. PICKENS suggested the propriety of referring the Senate bill in the first place to the Committee of Ways and Means.

1st Sess.]

*Repeal of the Sub-Treasury Law.*

[August, 1841.]

## IN SENATE.

THURSDAY, July 29.

Mr. MANGUM said he was instructed by the Committee on Naval Affairs to report without amendment the House bill for the establishment of a home squadron. He was also instructed to report the House bill to provide for Navy pensions with an amendment.

## HOUSE OF REPRESENTATIVES.

SATURDAY, August 7.

*Repeal of the Sub-Treasury.*

Mr. SERGEANT rose, and moved that the Committee of the Whole on the state of the Union be discharged from the consideration of the Senate bill No. 1, being a bill in relation to the repeal of the Sub-Treasury, in order to its being taken up in the House.

After considerable discussion it was agreed to.

The Senate bill No. 1, to repeal the act commonly known as the Sub-Treasury law, with the amendments proposed to the said bill by the Select Committee appointed by this House, on the currency, being now under consideration—

Mr. PEABOCK, of Maryland, having obtained the floor, went into a speech in detail, in reply to that made by his colleague, (Mr. MASON,) which he quoted as he proceeded. The body of the speech was of a local character, referring to the history of the late Presidential canvass in Maryland.

Mr. MASON now rose to set his colleague right. He said the great object of his colleague seemed to have been to turn what he said a few days ago into ridicule. He thought it unfair in his colleague to say what he had said, because he had showed him a letter he had written to the Baltimore Patriot, that he had been grossly misrepresented, and desired him to forbear further comment until he had his speech before him. He said before the people in his district, when he ran for the Legislature last fall, he was beaten by Gen. Harrison's great name—but when he ran for Congress, he ran as a friend of the Sub-Treasury, and was elected. He said his opponent held up before the people the badge of mourning for the memory of Harrison, but it would not do. Mr. M. then recapitulated the arguments of his former speech.

Mr. FILLMORE moved that the bills lying on the Speaker's table be taken up on their first and second reading, and referred to their appropriate committees; which motion having been agreed to—

The House adjourned.

MONDAY, August 9.

*Repeal of the Sub-Treasury Law.*

The unfinished business of Saturday was the bill from the Senate repealing the act common-

ly known as the Sub-Treasury law, as the said bill had been proposed to be amended by the Select Committee appointed by this House on the subject of the currency.

Mr. PROCKERS rose in opposition to the bill, which, as well as its antagonist measure, a Bank of the United States, he considered as involving principles deeply affecting the distribution of wealth and the wages of labor. After a word of commendation on the Sub-Treasury bill, he laid down the general principle, that nothing so much disturbed the currency and exchanges of a country as the use of Government credits of any kind, directly or indirectly. He had advocated the Sub-Treasury system chiefly because it abstracted Government credit from the business concerns of the country.

Mr. P. then traced the effect of the system he opposed, from the year 1833 to 1837; insisting that the exportation of Government credits to Europe had brought back not money, but an inundation of European manufactures, which came in competition with our own domestic labor. The catastrophe in 1837 had put a stop to this; inasmuch that, while the imports of 1839-40 had been 105 millions, the exports had been 131 millions: the balance going to pay the interest and part of the principal of our foreign debt; while but a year before the imports had been 150 millions, and exceeded the exports by 56 millions. This alone, was enough to derange the currency and exchanges of the country.

Mr. P. adverted to the loan of twelve millions, and the creation of bank stock, together with the distribution bill, prophesied that the result would be a repetition of the same measures as had flooded the country with foreign goods, and, instead of regulating, would disturb and derange currency and exchange.

He appealed to gentlemen from Connecticut and Pennsylvania, whether they would stand such a mass of foreign competition. Capitalists would get control of the Government credit, as they had lately had of State credit, and corporation credit. But it would be that class of capitalists whose capital, being chiefly invested in stock, was movable, and could easily be transferred into a new channel. These would come in competition with those whose capital, being in lands, and in factories, was fixed, and could not be withdrawn from its existing investment. The effect would be, at first, to produce a fictitious and deceptive appearance of prosperity; but this would be quickly succeeded by reaction, and a proportionate condition of mercantile distress and embarrassment.

Mr. P. then proceeded to contrast the circumstances under which the previous national banks had been created with those of the country at this time, arguing to show that, if a bank should be established now, foreign exchange would be against the country; but if Government did not interpose to aid the bank, by creating some sort of exchequer bills, it would not stand six months. This, he said, the peo-

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[27TH CONG.]

ple never would countenance or tolerate. He went into some statistical statements, showing what had been the course of the last Bank; and what had led to its ruin. He did not spare the Pennsylvania bank, which he designated as a charnel house of corruption, disgusting and revolting to behold.

He next went into the alleged power of a National Bank to regulate exchanges, which he utterly denied. The true meaning of exchange was the difference between cash and the value of a bill drawn upon a particular point; but, in the modern use of the term, it had come to be considered as merely the difference between bank notes of different banks. Thus in Savannah there were banks which paid, and other banks which did not pay, specie, and the difference in the value of their notes was called exchange. It was a mere absurdity so to call it, and the argument builded on it was a mere catchpenny argument.

In confirmation of his position that the United States Bank never did, in this modern sense, equalize the exchanges of the country, Mr. P. quoted a long table in detail, showing the rates of exchange in different years during the lifetime of the bank. He insisted that neither a National Bank, nor the Government itself, nor any other power on earth, could or ever had regulated exchange, but the course of trade, which was as irresistible and uncontrollable as the laws of Nature; but being itself controlled by the relation of demand to supply. He traced the contrary idea to the English financiers, and their inferences from the operations of the Bank of England; but gave it as his opinion that there never had been a greater fallacy. He relied much on the fact that while the Bank of England had increased her bullion nine millions in 1818, yet the course of foreign exchange had been steadily against the bank. The theory assumed many things which were not true, but were on the contrary impossible: such as, that the course of trade, the state of the tariff, and the amount of products in foreign countries, remained always the same. Even when England was importing grain from abroad, exchange remained against her.

But if a National Bank could regulate domestic exchange, how could it do it? As it had in 1819, '20, and '21, by breaking all the Southern banks, that it might concentrate all the specie of the country in its own vaults? Such must again be the inevitable effect of a central bank, with branches in the States. He quoted a letter of Mr. Biddle's to a committee of Congress in 1832. He insisted that the apparent equalization of exchanges was deceptive, and the mere effect of transferring brokerage from private counters to the counters of the branch banks, while labor felt no benefit from the operation.

Mr. P. now went into a history of the causes of the revulsion in business which occurred in 1837; which he traced, not to any war of the

Government against the Bank of the United States, but to the course pursued by the Bank of England in first extending her credits over this country, and then suddenly increasing her bullion four millions and curtailing her discounts eight millions; thus withdrawing sixty millions of dollars in a single year from the amount of circulation. In addition to this had come the effect of the deposit distribution bill, which aggravated the evil and precipitated the catastrophe. That it was not owing to the Sub-Treasury, he insisted, was proved by the fact that the same and greater distress was experienced simultaneously in England and also in some parts of the continent.

Mr. P. inveighed with some vehemence against the plan of the Fiscal Bank, as a political measure and a Treasury Bank, as a monster god, engendered in fraud and brought forth in corruption, and avowed his determination never to bow in worship before such a horrid idol. Neither would the country; they would give all vested rights to the winds, tear up all parchment edicts to threads, and trample them under their feet; but never, never could or would they submit to so vile a compound of fraud and iniquity as was now proposed to be forced upon their necks.

Mr. HUNT next obtained the floor, and went into a speech in support of the bill, in which he took a retrospective view of the rise and progress of the Sub-Treasury bill, from 1837 down to the present time.

He had constantly, and from the first, protested against and opposed it; and he now thanked a merciful Providence that he had been spared, as he hoped, to see the final repeal of so odious a measure of ignorance and tyranny, within one year after its birth had been celebrated by the firing of cannon, and hailed as a third Declaration of Independence.

Mr. H. insisted that its condemnation had been pronounced by the whole American people—the Sub-Treasury having been made a distinct issue throughout the country at the late Presidential election.

Mr. MERRIWETHER adverted to some of the remarks of the gentleman from New York, (Mr. HUNT,) and the gentleman from South Carolina, (Mr. PICKENS,) and also to those of the gentleman from Pennsylvania, (Mr. INGERSOLL,) made a few days since.

He then went on to say that he would now, without taking up the time of the House in referring to the cross-road speeches and the hard-cider arguments which the gentleman from South Carolina was so fond of citing on all occasions, proceed to give some of his views on the subject then before them—the repeal of the Sub-Treasury.

He would say, at once, that he was in favor of the proposition, and he expressed his utter inability to discover how the friends of the Sub-Treasury came to the conclusion that it was a measure separating the Bank from the State. For

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*Repeal of the Sub-Treasury Law.*

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his own part, he had never been able to perceive it; but, on the contrary, regarded it in a light exactly the reverse.

He next proceeded to cite from the report of Secretary Woodbury, made at the last session of Congress, for the purpose of showing that there was scarcely a bank in the country with which the Government was not most closely and intimately connected, and that they had greatly increased in numbers of late years.

He contended that the Sub-Treasury rendered it almost impossible for the Government to shake off these mushroom institutions, which had sprung into existence ever since the war had been commenced upon the currency. He next entered into some statements to show the great expense incurred under this system in the collection and disbursement of the revenue. He condemned the Sub-Treasury as not answering the ends and purposes which its advocates had claimed for it, when it became the law of the land; and he pronounced it as a humbug of the veriest kind, which had been forced upon the country by palming upon this House a representation from a whole State that had not been elected by the people.

Mr. STENROD next addressed the House in an able and argumentative speech, in opposition to the bill, in the course of which he showed the inconsistencies of the Whig party, and contrasted their professions before the late elections with their practices since. He took a view of the corruptions and abuses of the paper system, and particularly those of the late Bank of the United States, contrasting them with the sound and healthful operations of the Constitutional Treasury, which, he contended, had performed all that had been promised for it.

Mr. GIDDINGS said, that during the last eight months which this House had been engaged in legislation, more than two of those months had been spent in discussing this question of the Sub-Treasury and its antagonist measure. In that time, something more than a hundred and two speeches, he believed, had been made and published, and by hundreds of thousands sent forth to the people. He believed he would now better subserve the interests of those who sent him here, by endeavoring to bring the debate to a close than by making a speech. He therefore called for the previous question.

Mr. WELLER moved a call of the House.

Mr. JOHN T. MASON moved an adjournment; but withdrew it.

Mr. HALSTED renewed the motion, and asked for the yeas and nays; which were ordered, and, being taken, were—yeas 62, nays 95.

So the House refused to adjourn.

Mr. LEWIS WILLIAMS asked the yeas and nays on the motion that there be a call of the House; which were ordered, and, being taken, were—yeas 101, nays 77.

So the call was ordered.

And the roll being called, 178 members answered to their names

And the names of the absentees having been called, 206 members appeared to be present.

The bill, as amended, was then ordered to be engrossed for a third reading.

And having been ordered to a third reading now, the bill, by the following vote, was passed:

YEAS.—Messrs. Adams, Allen, Landaff W. Andrews, S. J. Andrews, Arnold, Aycrigg, Babcock, Baker, Barnard, Barton, Birdseye, Black, Blair, Boardman, Borden, Botta, Briggs, Brockway, Bronson, M. Brown, J. Brown, Burnell, W. Butler, Calhoun, J. Campbell, William B. Campbell, Thomas J. Campbell, Caruthers, Childs, Crittenden, John C. Clark, Staley N. Clark, Cowen, Cranston, Cravens, Cushing, Garrett Davis, William C. Dawson, Deberry, John Edwards, Everett, Fessenden, Fillmore, A. Lawrence, Foster, Thomas F. Foster, Gamble, Gentry, Giddings, Gilmer, Goggin, Patrick G. Goode, Graham, Green, Greig, Habersham, Hall, Halsted, William S. Hastings, Henry, Howard, Hudson, Hunt, James Irvin, William W. Irwin, James, W. C. Johnson, Isaac D. Jones, John P. Kennedy, King, Lane, Lawrence, Linn, Mallory, Thomas F. Marshall, Samson Mason, Mathiot, Mattocks, Maxwell, Maynard, Meriwether, Mora, Morgan, Morris, Morrow, Nisbet, Osborne, Owaley, Pearce, Pendleton, Pope, Powell, Proffitt, Ramsey, Benjamin Randall, Randolph, Rayner, Rencher, Ridgway, Rodney, Russell, Saltonstall, Sergeant, Shepperd, Simonton, Slade, Smith, Stanly, Stokeley, Stratton, Stuart, Summers, Taliaferro, John B. Thompson, Richard W. Thompson, Tillinghast, Toland, Tomlinson, Triplett, Trumbull, Underwood, Van Rensselaer, Wallace, Warren, Washington, Edward D. White, Joseph L. White, Thomas W. Williams, Lewis Williams, Christopher H. Williams, Joseph L. Williams, Winthrop, Yorke, Augustus Young, and John Young—134.

NAYS.—Messrs. Arrington, Atherton, Banks, Beeson, Bidlack, Bowne, Boyd, Aaron V. Brown, Charles Brown, Burke, Sampson H. Butler, William O. Butler, Green W. Caldwell, Patrick C. Caldwell, Cary, Chapman, Clifford, Clinton, Coles, Cross, Daniel, Richard D. Davis, John B. Dawson, Dean, Doan, Doig, John C. Edwards, Egbert, Ferris, John G. Floyd, Charles A. Floyd, Fornance, William O. Goode, Gordon, Gustine, Harris, John Hastings, Hays, Holmes, Hopkins, Houck, Houston, Hubbard, Hunter, Ingersoll, Jack, Cave Johnson, John W. Jones, Keim, Andrew Kennedy, Lewis, Littlefield, Lowell, Abraham McClellan, Robert McClellan, McKay, Marchand, Alfred Marshall, John Thompson Mason, Mathews, Medill, Miller, Oliver, Parmenter, Patridge, Payne, Pickens, Plumer, Reding, Riggs, Rogers, Roosevelt, Saunders, Shaw, Shields, Snyder, Sprigg, Steenrod, Turney, Van Buren, Ward, Watterson, Weller, Westbrook, James W. Williams, and Wood—87.

Mr. HALSTED moved a reconsideration of the vote just taken.

Mr. H. said he had long been endeavoring to obtain the floor, in order to make some remarks on the manner in which the Sub-Treasury bill had passed. He wished to show to the country that it was passed in consequence of the tyrannical act of the majority of the House, depriving the legally qualified members of the State of New Jersey of their rights on that floor. Mr. H. was proceeding amidst repeated



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interruptions and calls to order, when he finally yielded the floor, as he said, at the solicitation of his friends, and saying that he would take some other opportunity of speaking on the subject of the injustice that had been done the New Jersey certificate members. Mr. H. then withdrew his motion for reconsideration.

Mr. SHIELDS rose and obtained the floor, and amid cries of order, order, said he wished to ask the gentleman from New Jersey (Mr. HALSTED) one question, and would be obliged to him for an answer. Would he rise up and say to the House and the country, that he and his colleagues, who were rejected by the House of Representatives, had been elected by a legal majority of the voters of New Jersey.

Mr. HALSTED made no reply.

Mr. J. C. CLARK renewed the motion for reconsideration, and demanded the previous question; which was seconded.

Mr. CAMPBELL, of South Carolina, requested the gentleman from New York (Mr. CLARK) to withdraw his motion for the previous question, in order that he might make an inquiry of the gentleman from New Jersey, (Mr. HALSTED.) The inquiry which Mr. C. wished to make, was this: Did not the gentleman (Mr. HALSTED) and his associates, in the last election for Congress in New Jersey, run behind their party; and did not their competitors, the Democratic candidates for Congress, run before theirs? If this was the case, Mr. C. thought it afforded a very good commentary upon the remarks which the gentleman had just made, and might be regarded as a verdict of the people of New Jersey, in support of the final decision of the last House of Representatives, on the celebrated contested election from that State.

The main question (which was on the reconsideration) was ordered to be taken, and, being taken, was decided in the negative.

So the vote was not reconsidered.

And then, at half-past six, the House adjourned.

#### IN SENATE.

TUESDAY, August 10.

#### *The Land Distribution Bill.*

On motion of Mr. SMITH, of Indiana, the Senate proceeded to the consideration of the special order, being the bill to appropriate the proceeds of the public lands, and to grant pre-emption rights.

Mr. CLAY, of Alabama, moved to strike out in the 4th line of the 1st section the words "in the year of our Lord one thousand eight hundred and forty-one," and insert, "next ensuing the complete payment of the public debt that has been, or may be hereafter, contracted under any act of the United States."

Mr. C. grounded this amendment on the objections which he entertained to any distribution of the proceeds of the public lands while the country was in debt, and bills for additional taxes pending before the Legislature.

Mr. SMITH, of Indiana, said the amendment was fair and honest—it was made with a view to defeat the bill, and the question was simply bill or no bill, distribution or no distribution.

Mr. CLAY, of Alabama, said his proposition did not go to defeat the bill, but simply to make it take effect after the country was out of debt.

Mr. CALHOUN said it was estimated in debate by the chairman of the Committee of Ways and Means in the other House, that the average expenditures of the Government during the present Administration would equal \$27,700,000 annually. He also estimated on data furnished by the Treasury Department, that the receipts from the imports under the bill which passed that House, if it should become a law, would equal about \$18,500,000, making a difference of upwards of nine millions of dollars between the receipts and the expenditures, to be raised by increasing the duties on imports above 20 per cent. in direct violation of the compromise act. If Senators would take the trouble to examine the documents furnished by the Treasury Department, they would find that to produce that sum, the duties would have to be raised to at least 27 per cent. This, according to the estimate of the high authority of the chairman of the committee, must be the necessary result, should this bill to distribute the proceeds of the public lands among the States be passed.

He now appealed to Southern Senators—Senators from the staple States—on whose constituents this increased burden would principally fall. Are they willing to give their sanction to a measure which must necessarily terminate in the violation of the compromise act, and reopen the tariff controversy? Are they willing to surrender the important branch of revenue from the public lands, which must yield annually, if faithfully administered, four or five millions of dollars, when they are to receive, in its distribution, one dollar, for which their constituents would have to pay at least five times as much, to make good the deficit?

He would also appeal to Senators from the North, and ask, would they now set aside the compromise? The South has faithfully and honorably adhered to it, while it was favorable to the North: will the North, now, when the South in turn is about to reap the advantage, forget the fidelity with which we adhered to it, and deprive us of the benefit to which we are so justly entitled? He could not believe it possible that a course so disreputable would be adopted by the Northern Senators, unless, indeed, some portion of the Southern Senators should, by their votes, set the example, by sacrificing the interests of their constituents.

Mr. CLAY, of Kentucky, said the conjectural estimate of twenty-seven millions as the annual expenditure of the Government was a mere supposition, deduced from the average expenditure of the four years of Mr. Van Buren's administration. He hoped no Whig would ever

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assume that average as the average annual expenditure of a Whig Administration. He would go for reducing it to the lowest year in expenditure of that Administration, which was twenty-two millions, and he even thought it might be reduced to twenty. He was prepared to show at the proper time, that, without any violation of the compromise act, which he desired to preserve inviolate as much as any man on that floor, the bill from the House, now on our table, would yield a revenue to the amount of twenty-eight or twenty-nine millions; and this by the slight increase of duties, and taking the home valuation, which was done by adding twenty per cent. to the foreign valuation. The compromise bill was passed with the understanding that the revenues of the Government were to be derived from the customs alone.

Mr. CALHOUN said not only the Senate but the country had a right to complain of the order which the Senator had given to the business of the session, for he held him exclusively responsible. He has reversed the natural order throughout the entire session: putting that first which ought to succeed the other, and rendering it almost impossible to discuss intelligibly any one bill from the want of a full knowledge of that which ought to precede it. This case furnishes a striking illustration. It is manifest at every step that the bill imposing taxes ought to have been discussed before this bill for the distribution of the revenue from the lands. How can any one ascertain whether the revenue from the lands can be spared, till it is known what revenue the tax bill will give? And yet we are forced into the discussion of the latter without the slightest reason, before we have considered the former. The Senator ought to have commenced the session, if he intended fairly, with the tax bill, and settled, in the first instance, what was to be the policy of the Administration; what sum it would require annually to carry into effect that policy, and how it was to be raised. By adopting that order, each preceding subject would have cast light on that which followed, and the business of the session progressed at least intelligibly, if not wisely. If his design was to carry his measures at all events, whether right or wrong, the course pursued may have been the proper one; but if not—if he relied on the wisdom and truth of the measures as the means of carrying them, the order adopted was certainly most preposterous.

We are, however, told that expenditures are to be reduced, and economy and retrenchment to become the order of the day. He would much rather see it than hear of it. He has become slow of belief and distrustful of promises from those in power. Whenever he hears them from that quarter, he involuntarily thinks with what fidelity they have observed the famous promise that proscription should be proscribed. Before he sat down, he would again warn Southern gentlemen, that if they vote against this amend-

ment and in favor of the bill, they would lay the certain foundation of a violation of the compromise, and the renewal of all the oppressions of a protective tariff.

Mr. CLAY said he was willing to take the responsibility of the measures of the present session, if they are passed into laws, and passed they will be, if there is fidelity to the Whig cause. The Senator says that home valuation is unconstitutional, and that he is opposed to it; but does he suppose that the friends of protection would yield this, and give up all to the other side? If he does, he will find himself mistaken. But it is unconstitutional, says the Senator. It is easy to make these flippant assertions of unconstitutionality, but it is not at all unconstitutional.

Mr. RIVES, of Va., said he was a member of the committee with which the compromise originated; and never, in the discussions of that committee, or out of it, did he hear the suggestion that the abandonment of the public lands as a source of supply to the Treasury, was understood to have any share in settling the terms of compromise. He certainly had not entertained any such views, much less entered into any obligations in regard to the disposal of public lands revenue. He believed he had then, and always when the question came up, voted against the distribution bill. He should continue to do so, unless it was made perfectly clear to his mind that the duties under the compromise bill would meet all the public exigencies, and leave nothing to apprehend as to the establishment of a permanent public debt.

Mr. WOODBURY said the gentleman opposite had held out promises of reducing the aggregate expenditures down even to thirteen millions, and some to fifteen. Yet Mr. W. had computed that they were not likely, under the past Administration, to fall much if any below fifteen millions.

But should the present Administration redeem the promises and pledges of reduction, so as to come down to fifteen millions, which Mr. W. would rejoice to witness, then indeed the lands would hardly be needed. But not till then. And when this Administration fulfilled such flattering promises and pledges, as well as several others still unperformed, they would deserve the continuance of public confidence much more than he apprehended they now did. The only other point which he should advert to was the necessity for keeping these lands till our debts were paid, as proposed by the motion before us. Why, sir, what do we see in that respect? An expenditure swollen in this very year to twenty-seven or twenty-eight millions for the current service only. We contemplated only twenty. An expenditure also for the next year, computed by the chairman of the Committee of Ways and Means in the other House, the exponent of the Treasury Department, at quite an equal extraordinary amount of twenty-seven or twenty-eight millions. Other speakers in the other House

agreed to the chairman's amount; and some to twenty-five millions. Instead of retrenching to eighteen millions, as we contemplated by 1842, or to fifteen and thirteen as our opponents proclaimed, they seem by estimates to augment them to the appalling aggregate of near twenty-eight millions.

What are they in fact likely to be? The gentleman from Kentucky thinks that amount too high. But are there not other fortification bills in progress, so as to expend still more on their account in 1842? Are there not new propositions for new and additional steam batteries? Are there not measures in train to place on the general Treasury large charges for the Post Office? Is there not a new system in progress of civil pensions? And another of quarantining on the general Treasury, for the first time, next year as well as this, many of the naval pensions?

Are there not, in fine, wars and rumors of wars in perspective, that are likely to lead to even still larger expenditures in 1842 than in 1841?—and for which wise preparation during peace—provided real danger exist, however caused—we can derive hereafter no aid from the public lands if this bill passes.

But give away the public lands, and allow your expenses for the current service to go, in 1842, as high as they are pushed in 1841—as high as the official organs and several of their friends seem to compute them, and as high as circumstances indicate they are likely to range; and a deficit of at least eight millions seems to be highly probable. I shall be happy to find it made less by the Senator from Kentucky. Now, to raise this sum by the tariff, and to pay the expenses of collection, &c., attendant, the proposed increase of the tariff to twenty per cent. is manifestly inadequate. It must go still higher, and must reach near thirty per cent. on the necessities, as well as luxuries of life, and the compromise thus be deliberately and materially violated.

Gentlemen may ask, how is it to be avoided? I answer, first, by avoiding this prodigal donation, in this crisis, of the proceeds of the lands, which you yourselves so imperatively need. By avoiding next, sir, that fatal increase of debt and expenditure in peace, which furnishes the apology for this vast augmentation of the tariff.

This is my plan—and to aid in accomplishing it, I should not hesitate to adopt the motion now before us, and not part with the lands at least till our debts are all honestly and promptly paid.

The question was then taken on the amendment, and decided in the negative as follows:

YEAS.—Messrs. Allen, Benton, Calhoun, Clay of Alabama, Cuthbert, Fulton, King, Linn, McRoberts, Mouton, Nicholson, Pierce, Sevier, Smith of Connecticut, Tappan, Walker, Williams, Woodbury, and Wright—19.

NAYS.—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clay of Kentucky, Dixon, Evans, Graham, Henderson, Huntington, Ker, Merrick, Miller,

Morehead, Phelps, Porter, Prentiss, Preston, Rives, Simmons, Smith of Indiana, Tallmadge, White, and Woodbridge—27.

Mr. McROBERTS moved to amend section ten by striking out the words "and which has been, or shall have been, surveyed prior thereto."

Mr. McROBERTS, in support of his amendment, proceeded to say that the section of the bill under consideration was the one containing the pre-emption clause. It provided that every person, being the head of a family, or widow, or single man over twenty-one years of age, &c., who has made, or shall hereafter make, a settlement on the public lands to which the Indian title has been extinguished, and which has been, or shall have been, surveyed prior thereto, &c., shall be entitled to a pre-emption. I have been thus particular in stating the substance of the section, that the object of my amendment may be the more readily understood. That the Indian title should be extinguished before settlements should be allowed, so as to authorize pre-emptions, is right and proper. The law has never been otherwise. But, sir, continued Mr. McR., is it right and proper to exclude persons from the right of pre-emption, who settle upon the lands before the surveys are made? To retain this provision in the bill, would defeat the great and paramount object of Government in granting pre-emptions. It would exclude the pioneers who first cultivate the wilderness, and, therefore, have the strongest claims. I have therefore moved to strike it out, so that the actual settler, whether he should build his house, and plough his field, and plant his corn, either before or after the land was surveyed, would still be entitled to a pre-emption. But the injustice of the provision as it now stands in the bill, will be at once perceived, when the fact is recollected by the Senate, that this Government has never been able to carry on its surveys so as to keep pace with the population. This branch of the public service has always been in arrear of the public wants. The inability of the Government to hasten the surveys ought not to be taken advantage of, and from that cause, refuse pre-emptions to actual settlers upon the lands. But, sir, was such a provision ever inserted in any previous pre-emption law? No, sir, no. This is the first instance, and I hope it may be the last.

As a Senator from one of the new States containing the public lands, let me tell you, sir, the consequences of this feature in the bill. There are hundreds, and possibly thousands, of citizens of Illinois, now residing upon public lands in that State, which have not to this day been surveyed—lands upon which the Jacob staff was never erected. Men, and women, and their little children, have homes in that great State, beyond the limits of the public surveys. Sir, we have had counties organized—counties thickly populated, too, upon the public domain. And, sir, let me say further, that no population upon this earth is more just, more upright, or

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*Mr. Wise and the Sub-Treasury Bill.*

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more hospitable, than that population. Honor, integrity, and chivalry, are their birthright. The whole of the denunciations of the settlers on public lands, so far as Illinois is concerned, are only evidence of the ignorance of men who make them.

Sir, it has been said that to allow pre-emption in advance of the surveys, might interfere with the 16th section reserved for schools. This is a mistake, because section sixteen is expressly reserved to each township by the ordinance of 1787, and it is also from abundant caution, because it was unnecessary, again reserved in this bill.

Why, sir, a large portion of the great valley of the Mississippi has been settled and improved before the surveys were made. I hope that a provision, so manifestly unjust, may be stricken from this bill. Not only this feature in the bill, but other parts of section ten, show that it was conceived and written in a spirit hostile to the growth and prosperity of the West.

Mr. SMITH, of Indiana, said it was a practical question whether settlers should be permitted to go on the public lands before they were surveyed. The House of Representatives had come to the conclusion in advance that they should not. He had always voted in favor of pre-emption laws and pre-emption claims; and was still in favor of them. He thought, however, there ought to be some limit. The sixteenth section was reserved by compact for the use of schools; but if it were declared in advance that lands may be settled on before they were surveyed, the settler could know nothing of the sixteenth section, and his title might conflict with the reservation, and they would have to grant him a float, or deprive him of the benefits of his improvements, which he (Mr. S.) was not disposed to do.

There was no danger of that time ever coming when lands sufficient could not be surveyed. He was in favor of pre-emption rights, but he did not think they ought to go in advance of the public surveys.

Mr. LINN said the whole body of Missouri had been settled by a hardy and enterprising band long before the lands were thought of being surveyed. It had always been so, and always would be so; and if, after these people had settled on the public lands, and made their improvements, any attempt was made to put these lands up at auction because they had not been surveyed, it would compel these people to combine and drive off the intruders with their rifles.

Mr. YOUNG insisted it was the first time that any such principle had ever been ingrafted on a pre-emption bill. If pre-emption rights were not to be granted until after surveys were made, there might be excepted four organized counties in the State of Illinois, where there were a thousand voters. In the same section, too, he found a clause excluding aliens from the right of pre-emption—an invidious distinction, which had never before been made.

The debate was further continued by Messrs. SMITH, of Indiana, PORTER, and YOUNG, when

Mr. HUNTINGTON argued against the amendment. He said the Senator from Illinois seemed to view the subject as though the rights of no other parties were to be considered but those of the settlers. He thought enough was done when the settler was secured in his pre-emption right, after the land had been surveyed. To strike out the clause, which the Senator had moved to do, would be at all times to invite intruders on the choicest spots of the public lands in advance of the surveys.

Mr. WOODBRIDGE thought the whole West ought to stand by the pre-emption principle, and that the public surveys should be finished with as much rapidity as possible. On the whole, however, he thought evils might grow out of the amendment.

The question was then taken on the adoption of this amendment, and decided in the negative, as follows:

YEAS.—Messrs. Allen, Benton, Buchanan, Clay of Alabama, Cuthbert, Fulton, King, Linn, McRoberts, Mouton, Nicholson, Pierce, Porter, Smith of Connecticut, Sturgeon, Tallmadge, Tappan, Walker, White, Williams, Woodbury, Wright, and Young—23.

NAYS.—Messrs. Archer, Bates, Bayard, Berrien, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Henderson, Huntington, Ker, Merrick, Miller, Morehead, Phelps, Prentiss, Preston, Rives, Simmons, Smith of Indiana, Southard, and Woodbridge—24.

Mr. YOUNG then moved to strike out that clause which related to the exclusion of aliens.

Mr. SMITH, of Indiana, explained that the bill simply required the alien to have filed his declaration of intention to become a citizen, as required by the naturalization laws, to give him all the rights under the bill.

When the question was taken on the amendment, and decided in the negative, as follows:

YEAS.—Messrs. Allen, Benton, Buchanan, Calhoun, Clay of Alabama, Cuthbert, Fulton, King, Linn, McRoberts, Mouton, Pierce, Smith of Connecticut, Sturgeon, Tallmadge, Tappan, Walker, White, Williams, Woodbury, Wright, and Young—22.

NAYS.—Messrs. Archer, Bates, Bayard, Berrien, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Henderson, Huntington, Ker, Merrick, Miller, Morehead, Phelps, Porter, Prentiss, Preston, Rives, Simmons, Smith of Indiana, Southard, and Woodbridge—25.

## HOUSE OF REPRESENTATIVES.

TUESDAY, August 10.

*Mr. Wise and the Sub-Treasury.*

The Journal of yesterday was read and approved.

Mr. WISE rose, and requested the House to permit him to record his vote in favor of the bill which passed this House yesterday, providing for the repeal of the bill commonly known as the Sub-Treasury law.

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*Bankrupt Law.*

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Objections being made, the vote was not recorded.

*Bankrupt Law.*

Mr. BARNARD moved that the committee proceed to the consideration of the Bankrupt law.

The bill, having heretofore been read through, was now taken up by sections.

And the first section having been read, and the question being on agreeing thereto,

Mr. BARNARD (chairman of the Committee on the Judiciary) opened the debate in a speech in which he gave a concise sketch of the history of the present bill. He explained its provisions, and commented on the nature of the obstacles hitherto presented to its passage, and concluded with an impressive description of the embarrassment and distress prevailing throughout the country among that unfortunate class whom this bill could alone relieve.

Mr. GORDON, of New York, said, that there could be no doubt that Congress possessed the power to pass a bankrupt law, but it did not follow because it had, that therefore it should exercise it. Congress in 1800 did pass an act, which was to expire by its own limitation in five years; but was repealed in 1803; and from that day to this numerous efforts had been made to pass another bankrupt law, but they had all failed. And why, he would ask, had they failed? It was because the people had given their Representatives in Congress to understand that such a measure would be injudicious and unwise. Now, what evidence was there that the people were, at this time, in favor of the passage of a bankrupt law? The chairman of the Committee on the Judiciary had made a very able report on the subject, and also a most excellent speech, but still he had failed to convince him, Mr. G., that the opinions which he had formed were erroneous. It appeared from what the gentleman had said, that there were 500,000 bankrupts in the United States; but that 45,000 only had really petitioned for the enactment of a bankrupt bill. He, Mr. G., should think that this fact alone went to prove that the people at large had not asked for it. He conceived this to be the best evidence that could be adduced to show that the law was not desired by the people. So much for the popularity of this subject. Mr. G. went into a brief examination of the constitutional questions bearing upon this subject, and then proceeded to argue, from some of the provisions of this bill, that it was not uniform in its character, and that it would work unequally both as regarded individuals as well as States. He complained that there had been incorporated in the same bill a bankrupt system and an insolvent system, and he asked what power Congress had to pass an insolvent law? Whilst he admitted its power to pass a bankrupt act, he denied it had a right to enact an insolvent law.

He entered into an explanation of the mean-

ing and distinction of the terms "bankrupt" and "insolvent," as understood in England, and contended that these terms were confounded in this bill, when there was a broad and palpable distinction between the two classes of debtors. He argued that this was a proposition to violate the obligation of contracts, and interfere with the insolvent laws of the several States. He admitted that Congress possessed the power to pass a bankrupt law, but that law must be prospective, and not retro-active, and it must operate upon all debtors alike. He contended that under this bill the banks and other corporations, such as the Bank of the United States of Pennsylvania, included in its provisions, as otherwise they would go to favor, in very many cases, a set of swindlers and rascals, at the expense of the community generally. He thought that speculators and others, of loose moral principle, would take advantage of the law, and sacrifice the innocent, the honest, and the upright, to carry out their own selfish and dishonest purposes. He next showed that the operation of this bill would be highly injurious and oppressive to the creditors in the several States, who, in order to substantiate their claims against an individual residing in another, and perhaps, distant State, might be compelled to travel some thousands of miles to do it. The operation of the act then, in a vast many instances, would be, that the debtor would get off, in consequence of the creditor being reduced to the necessity of travelling thus far, to the great neglect of his business and other demands upon his time and attention at home. He concluded with saying that he hoped some more able members than himself, who had studied the subject more than he had done, would sustain the motion to strike out the enacting clause of the bill.

Mr. ROOSEVELT referred to the various speeches which had been made on both sides of the question, and to the numerous petitioners whose memorials had come up to Congress both for and against the bill. Among those in favor of it he had the honor of presenting some from his own city, and among the signers would be found not merely those who had been rather lightly spoken of as speculators and bankrupts, but men of substance, men of large means, who were far above the suspicion of having any personal interest in the passage of the law; such, for example, as William P. Astor, whom no one, he presumed, would suspect of any intention of taking the benefit of the act, but whose chief trouble might be supposed to arise from his having more property than he knew what to do with. He also referred to a highly respectable German firm, whose name escaped the Reporter's ear, whom he complimented on their steady habits, straightforward integrity, and fidelity to all their contracts. The reason why such persons put their names to a memorial for a bankrupt law might be presumed to be, that a large body of their personal friends or connections had, from the misfortunes of the

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times, and under the universal delusion which spread like a sort of mental cholera in 1835 and 1836, been prostrated in the general crash of the succeeding year. In the wide-spread ruin of 1837, good and bad, firm and infirm, prudent and imprudent, had alike been swept away, as by a whirlwind; and, had the preceding delusion continued six months longer, there would have been, commercially speaking, scarce a sane man left in the whole trading community. In behalf of the victims of this general business-madness, many men, whose fortunes and credit remained beyond the reach of doubt and danger, had now kindly interested themselves in a manner which did honor at once to their heads and hearts. And, although, among those who would share in the results of their interposition, there might be some not worthy of it, still their mercy would fall like that of heaven, which often spared the ill-deserving, that the innocent might be shielded from the effects of their punishment. Another cause of the part which such persons took in memorials for a bankrupt law, might be an enlarged and enlightened regard to their own true interest. Much apprehension was felt by some of these very men, that they might lose many debts otherwise not desperate; but their calculation still was that they might probably gain more by trade with the restored debtors, than they would lose by discharging them from their previous obligations. It was a sound opinion; for experience showed, with regard to the scraps and crumbs of a merchant who had made a bad failure, that the contingent remainders of these lost estates were in the long run swallowed up (not improperly, but from unavoidable expenses) by the legal profession.

Mr. R. admitted that there were inherent difficulties in the case. While every man of humanity must feel anxious that the honest but unfortunate debtor should be released from the liabilities he never could discharge, every just man's mind as strongly repels the idea of releasing the debtor who was dishonest and fraudulent.

At this time the whole country was covered with debt—with debt contracted under a totally different state of things, when currency was not worth more than half its value; when bank notes were as plenty as the leaves in autumn; when a man had nothing to do but put an apron on, and he could catch his lap full at any time. True, the contracts then made, if strictly construed, bound the man to pay for every dollar in his bond a constitutional dollar; but to exact this now, was in truth and reality to exact two dollars for one. Was not this a case demanding the interposition of Congress, if it had the power to grant relief? Surely the case had arisen which the constitution contemplated when the power was given.

Let a bill on this subject pass, and there were no fears as to its fate at the other end of the Avenue, for the Message at the opening of the session forbade that idea.

Mr. MASON, of Ohio, next obtained the floor, and went into a very learned and argumentative speech in reply, more particularly, to some of the positions previously taken by Mr. GORDON, between whom and himself several explanations, replies, and rejoinders passed, chiefly having reference to law technicalities, which the Reporter does not pretend to comprehend. Mr. M. went largely into the constitutional question, as well as into the expediency and necessity of the law, both of which he defended with great earnestness.

Mr. FERRIS took the opposite side, and spoke with his accustomed clearness and cogency in opposition to the bill, as going, in its humane regard to the misfortunes of the debtor, to violate the constitution by destroying the debts of the creditor, and depriving him of his just remedy against those who would defraud him of his due. Sound-minded and thinking men would not be swayed by the impulses of passion and the strongest appeals of eloquence to do a great public wrong. They would not vitally stab the constitution of their country, which was the safeguard as well of their own rights as those of others. This Government had a character to preserve with the commercial and civilized world; and what would the nations of Europe think of us, who look mainly to the honor and integrity of the Government to protect their rights when they entrusted their funds to our citizens and vested their property in our enterprises? What would they think of the introduction of a perfectly novel principle into our legislation—a principle unknown to any civilized nation upon the globe? What reliance would they place on the liabilities of our merchants, when their debts were liable to be irrevocably destroyed by a national law? If gentlemen were to draw on their imagination for cases of distress in debtors, why not employ it a little on the other side, and present some pictures of the hardships of an indulgent but defrauded creditor, and the frauds and injustice of debtors who rolled in ease and luxury, setting their creditors at defiance? He believed instances of hard, and cruel, and ironhearted creditors were more frequent in novels and play-books than in real life.

Mr. F. insisted that the law of 1800 had not been retrospective—it was prospective only. As to the difference of the language employed by the constitution in restricting the States and restricting the General Government, he thought the argument worth little; because, as the General Government was the creature of the States, and had no powers but such as were granted to it, it needed no restriction on a power not granted: whereas the States, being original depositories of power, did need restrictions in the exercise of power which they did possess, and might otherwise have exerted. No matter whether an *ex post facto* law was strictly restrained to criminal cases: a retrospective bankrupt was in the nature of an *ex post facto* law, and to pass it would be to vio-

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late the spirit of the constitution. A law was a rule of action; but how could a law be a rule to a man's action which was not passed until ten or twenty years after the action had taken place? He considered such a law as one of the most tyrannical exercises of power which the imagination could conceive. No precedent for it was to be found since the dark ages. If the state of the community required relief, let the relief come from the proper quarter—from the Legislatures of the States, or from the mercy and consideration of the creditor, which was rarely appealed to in vain by an honest debtor, who could show a clear case and make a fair surrender.

Mr. F. opposed the law as not being uniform in its operation, and therefore not constitutional. He argued this point from the different liens created by the laws of different States on the property of debtors.

Mr. FERRIS waived the question of expediency, partly for want of time to discuss it, but chiefly on the ground that if a law was unconstitutional it never could be truly expedient.

Mr. SALTONSTALL obtained the floor, and on his motion, the committee rose and reported progress.

And the House adjourned.

#### IN SENATE.

WEDNESDAY, August 10.

#### *Isle of Wight County (Virginia) Petition.*

Mr. CALHOUN presented a memorial and resolutions, adopted a few days since by a large and respectable number of the citizens of the Isle of Wight county, Virginia, at a meeting held in the court-house of the county. The memorial and resolutions are couched in most respectful terms, but at the same time express in strong language the opinions of the meeting, that the measures attempted to be forced upon the country at this extra session, are not approved of by the great body of the people of the United States. Much had been said in praise of the hasty action of the other House, designated so emphatically a "glorious" House, because of its precipitate action; but he (Mr. C.) would venture to say that never were measures so repugnant to the great body of the people, as those very measures, for the hasty passage of which that House had been so much lauded. The people never could, he would unhesitatingly assert, be brought to believe that a National Bank—national debt—distribution—and high taxation, were reasons for which their representatives would be entitled to their thanks. Those who wanted such measures might call it "glorious" legislation; but the people never would approve of such measures. He held that the people had a right to be heard, and he would therefore content himself, for the present, in moving that the papers which he had presented be printed. He requested the

Secretary of the Senate would have the goodness to read them.

The Secretary of the Senate then read the memorial and resolutions, of which the following is an abstract:

At a meeting of a large number of the citizens of the Isle of Wight, JOSIAH HOLLEMAN presided, and W. H. JORDAN acted as Secretary. The meeting was addressed by Colonel ARTHUR SMITH, and by JOEL HOLLEMAN, Esq. Resolutions were adopted unanimously, that Congress has no power to create a National Bank. That should Congress pass a Bank or Fiscal Agent, it is the opinion of the meeting the charter may be rightfully repealed. That the distribution of the proceeds of the public lands, with a deficiency in the Treasury, and an assumption of the debts of the States, is in violation of the rights of the States, and a dangerous encroachment upon the liberties of the people. That Congress has no power to lay and collect taxes, except to pay the debts of the General Government, and to provide for the common defence and general welfare, and has no power to lay and collect taxes, &c., with a view to the protection of any interest, either manufacturing, commercial, or agricultural. That the donation made to the widow of the late President of the United States, was a palpable violation of the constitution, and an unwarrantable waste of the public money. That copies of these proceedings be forwarded to the Hon. JOHN C. CALHOUN and Hon. THOMAS H. BENTON of the Senate, and Hon. JOHN W. JONES of the House of Representatives, with a request that they present them to the Congress of the United States.

After they were read, Mr. CALHOUN renewed his motion to print, and called for the yeas and nays.

The question was accordingly put, and negatived, as follows:

YEAS.—Messrs. Allen, Benton, Buchanan, Calhoun, Cuthbert, Fulton, King, Linn, McRoberts, Mouton, Nicholson, Pierce, Smith of Connecticut, Sturgeon, Tappan, Walker, Williams, Woodbury, and Wright—19.

NAYS.—Messrs. Bates, Bayard, Berrien, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Huntington, Miller, Morehead, Porter, Preston, Simmons, Smith of Indiana, Southard, Tallmadge, White, and Woodbridge—20.

Mr. CALHOUN said this was the first time he had ever known so respectful and unexceptionable an expression of the opinions of a large and respectable meeting, to be refused the usual courtesy of being printed. It was the first time since the beginning of this Government that a general gag system was attempted to be extended to the exclusion of public opinion. Here was the opinion of a large and respectable public meeting shut out from publicity, and from the common courtesy of printing, by a bare majority in favor of this gag system. Let it be told to the people that they are no more to remonstrate; but will that effect the object of the gentlemen? They may gag this body, but they cannot gag the people. Do the gentlemen think by silencing such memorials and resolutions, they can escape public comment? If

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they do, they deceive themselves: this is but the muttering of the thunder, and the gentlemen and their measures will be swept before the coming storm as the chaff before the whirlwind. With these remarks for the present, he would now move to lay the papers on the table.

Mr. BENTON requested Mr. CALHOUN to withdraw his motion to lay the proceedings on the table for a moment, and Mr. CALHOUN withdrew his motion.

Mr. BENTON then went on to say, that, having conformed to the decision of the Senate in moving, without debate, yesterday morning to take up the Fauquier proceedings, he would now take the opportunity to say something of those resolutions, and the reasons which were urged for refusing to print them. These reasons may be comprehended under three heads: 1. That they related to subjects which had passed by, and with which the Senate had nothing further to do. 2. That they were disrespectful in their language. 3. And that they asserted the right of repeal in relation to the Fiscal Bank. These were the objections; and to these I answer, that the first and second objections, are unfounded in point of fact, and so shown to be by the resolutions. One of them applies to this extra session itself, the calling of which it condemns, and I think most justly. The session still continues, and the resolution denies the wisdom and economy of this session—condemns its call, and its objects—and considers its existence a public injury. In all this I concur with the meeting; and as the session still continues, this resolution, of course, applies to a measure which has not passed by; and, therefore, the objection to it is unfounded. Another resolution applies to the new tax bill—the tea tax bill—which it utterly and most righteously condemns; and that bill is still before us. A third measure to which the resolutions apply, is the land distribution bill, and that is still before us. They also apply to the Bank bill, which was still in the other House when the resolutions were offered, and which may be before the Senate again. Thus, three of the subjects mentioned in the resolutions, were, and are still before us; a fourth was, and may be, before us; and all of them were before us at the time the meeting was held. The objection, then, which applies to the past-by, or gone-by, character of the measures, is unfounded in point of fact. With respect to the next objection, that the resolutions were disrespectful, Mr. B. said that this objection was one which was susceptible of a decisive answer. The resolutions would speak for themselves, and show their own character. They had been read in this chamber, and seen to be perfectly respectful. They will be published, and the public will judge. The public can judge as well as we; and, to help out their judgments, I shall merely refer them to the character of the memorials and resolves sent to this chamber by the Bank party during the panic session, lavishing every odious epithet on President Jackson and the

Government; and the whole of which were received here with so much honor, commented upon with so much zeal, and printed with so much haste, and now forming six volumes of documents on our shelves. To the third objection, no question of fact is raised. The fact is admitted. One of the resolutions declares the repealability of this Fiscal Bank, and the duty of Congress to repeal it. This is admitted and justified. I say the people have a right to ask for this repeal, and to be respectfully treated when they do ask for it. It is their right; and it is for themselves to assert that right at home, and for their representatives to vindicate that right here. What! Do those who advocate abolition petitions—who want them received and respectfully considered—do they object to a repeal petition as disrespectful? If so, let the people know it.

Mr. CLAY, of Kentucky, begged leave to make a single remark.

Mr. BENTON conceived the pending question was on the motion to lay the papers on the table.

Mr. CLAY. But, sir, they are not laid on the table yet.

The CHAIR was understood to say that the Senator from South Carolina had suspended his motion to allow the Senator from Missouri to make his remarks.

Mr. CLAY. Now, sir, who wants to suppress discussion. What I was going to say was, that we had heard with great patience and respect the papers read; but we do not see any necessity for printing them; they have been published already. I saw them in a Virginia paper this morning—on the score of publicity, there is no occasion to print them. I now move to lay the resolution on the table.

Mr. ARCHER. I hope the Senator will suspend his motion for a moment.

Mr. CLAY. No, sir, I cannot withdraw my motion.

Mr. WOODBURY called for the yeas and nays, which were ordered, and they were—yeas 21, nays 21; and so the motion of the Senator from Kentucky was negatived.

Mr. ARCHER then explained, that what he wished to say when the Senator from Kentucky declined giving him an opportunity, was that he was absent from his seat when the vote was taken on the motion to print. Had he been in his place, he would have voted for the motion. The memorial and resolutions were from a portion of his constituents with whom he did not concur in political opinion; but they were couched in respectful terms, and he had ever acted on the principle, that in such cases the courtesy of printing and consideration was due to any respectful expression of opinion coming from any portion of the people. This was the explanation he wished to make when he asked the Senator from Kentucky to suspend his motion.

Mr. CALHOUN. The course of the Senator from Kentucky in opposing the printing, is in



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keeping with his entire course during the present session. After gagging the House, and attempting to gag the Senate, it was but to be expected that he should next attempt to gag the people—to stifle their voice in their own House. The attempt was in vain. The public indignation is rising. The voice of the people, if suppressed here, would next be heard through the ballot box. We already hear the rumbling of the distant thunder. The storm was approaching, which would sweep away those who had betrayed a confiding people, and with them the doings of this long-to-be-remembered session.

Regarded in any other light than that of disrespect to those whose proceedings he had presented, he had no cause to complain of the conduct of the Senator in refusing to print them. It afforded another proof of the reckless violence that marks the conduct of that Senator. His hobby, which he has spurred and lashed so unmercifully, is panting under him, and this last blow will bring rider and hobby to the ground.

He would now renew the motion to lay the proceedings on the table.

Mr. CLAY made some remarks from his chair not distinctly heard.

The proceedings were laid on the table.

#### *Sub-Treasury Repeal.*

Mr. CLAY, of Kentucky. I now move to take up the report of the Finance Committee on the House amendments to the bill repealing the Sub-Treasury.

Mr. KING objected that it was not the next thing in order. The other orders of the day had precedence.

The CHAIR said this bill had precedence on the calendar in the regular orders of the day.

Mr. CALHOUN. Where is the revenue bill, and the other bills sent here from the House?

Mr. CLAY, of Kentucky. I moved to take up this bill; on that I hope the question will be taken.

Mr. WHITE asked leave to read from Jefferson's manual one of the rules bearing upon the question at issue.

Mr. CLAY, of Kentucky. I have moved to take up the repeal bill, and that question I now require to be put.

Mr. LINN wished to know of the Senator from Indiana (Mr. WHITE) whether he referred to one of the parliamentary rules, or a rule of the other House—the British rules, or the American rules? He thought the gentlemen on that side had repudiated all parliamentary rules.

Mr. WHITE. Allow me to read the rule.

Mr. CLAY, of Kentucky. I rise to a question of order, sir. There is no necessity for the Senator from Indiana to read any rule. I have made a motion, and let it be decided.

Mr. WHITE. I too, sir, make a point of order.

Mr. CLAY, of Alabama, made a few remarks. Mr. WHITE withdrew his point of order.

Mr. CLAY, of Alabama, then explained the point of order which he had made. It was, that all the business on the table coming within the orders of the day should be taken up and postponed before this bill could be acted on. He contended that it was not entitled to precedence.

The CHAIR took a different view, and explained.

Mr. CLAY, of Kentucky. My motion is to take up this bill in preference to any orders of the day which may have precedence.

The bill was then taken up, the question being on concurring in the amendments of the House of Representatives.

Mr. CLAY said the Committee on Finance recommended the adoption of the amendments. They were but two; one to repeal what was familiarly called the pet-bank system, with the exception of one of its provisions; the other was to repeal the law which prohibited the Government from paying notes of less denomination than twenty dollars. The Bank bill provided for an issue of notes of five dollars—this act was therefore useless. He hoped both amendments would be concurred in.

Mr. CALHOUN said this bill to repeal the Sub-Treasury was either useless or wrong. The bill now before the President superseded this bill, and provided for the keeping of the Treasury in another manner. The provisions of the Sub-Treasury act would, therefore, be superseded, if the Bank bill became a law. If the President did not sign the Bank bill, it was wrong to pass this, as it left no security by law for the Treasury. He would go further, and say it was indelicate. It must bear on the decision of the Chief Magistrate on the Bank bill. They interfered, then, with his right of deliberation. Not content with gagging the House, and attempting to gag the Senate, here was an attempt to coerce the Executive. They presented the alternative before him, that if he did not sign the Bank bill, the Treasury would be left without legal protection.

This was, in short, the question, and he moved to postpone the subject to Saturday next. He had seen it noticed in the papers that the Chief Magistrate intended to visit the ship Delaware on Saturday, and he (Mr. CALHOUN) took it for granted that he would dispose of the Bank bill before he made the trip. They owed it to themselves, to the Chief Magistrate, and to all concerned, that this matter be postponed. On this motion he called the yeas and nays.

Mr. CLAY said if the Senator meant to erect himself into a tribunal of decency, he (Mr. CLAY) would plead to his jurisdiction, and deny that he was competent to judge of what was decency on his (Mr. CLAY's) part, or on the part of Senators on that side of the chamber. What had been his object in moving to take up

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this bill? He had had no design of connecting the two matters. He should think that it would be agreeable to the President to have both subjects before him at once. Congress were to go on, and pass bill after bill, and if a number came before the President at once, it would enable him to act more understandingly on them. The gentleman had said that in a certain contingency, this law was wrong. He (Mr. CLAY) believed, whatever might happen, that their respect to the wishes of the people would induce them to repeal the Sub-Treasury, at any rate. As to its being superseded by the Bank, it was true that some of the provisions of the two acts interfered, and some did not; when this was the case, the Bank bill would supersede the other. They should act on matters that came before them, and with all due respect send them to the Executive, without reference to the fact of others being before him.

Mr. BENTON rose to offer an additional reason for postponing this bill until Saturday—it was, that the amendment from the House of Representatives not only provided for repealing the deposit act of 1836, and thereby placing the sword and the purse in the hands of the President—a conjunction to which he has heretofore shown great antipathy—but also repeals the twenty-dollar limit on Government payments in bank notes. The additional reason which I offer for this postponement is this: The amendment repeals the prohibition on the use of small notes—notes under twenty dollars—which was imposed on Government payments some years ago, and which has operated so beneficially in keeping this trash out of the public Treasury. The reason for the repeal given by the Senator from Kentucky (Mr. CLAY) is, that the new Bank bill authorizes the issue of notes as low as five dollars. Now the ready answer to this reason is, that that Bank bill is not yet a law! and may not be! and, therefore, the amendment turns upon a reason which does not exist! which may not exist! and which many believe will not exist. This is an additional reason for a few days' delay—for not embarrassing the President with the alternative of leaving the public moneys without the guardianship of law. With respect to the Independent Treasury system, it is now working well. No one can show an objection to it. It is doing all that its friends claimed for it; and it is doing the good work, besides proving every day that there is no necessity for a National Bank, and that the constitutional pretext for it is dead.

Mr. PRESTON said the Senate had acted on this subject about two months since. They had made it the first act to comply with the expressed opinions of the people, and had repealed the Sub-Treasury. Then, as now, its friends cried "give us a few days longer before this is repealed;" and now they entreated them to spare this cherished object a little longer. Did anybody doubt the general sentiments on this

measure, when they considered the unqualified condemnation from the people, when they considered the action of the other House, and this House, on this subject? Did any man doubt the opinions of the President, and with what deep and heartfelt satisfaction he would sign the death-warrant of this odious act? Now, its repeal was objected to as "indelicate" to the Whig President, and that by those who did all they could in preventing this indelicacy, by the defeat of his election. They now come forward to protect him from the injuries his friends would inflict upon him. It reminded him of the ancient maxim—"Timeo Danaos et dona ferentes." He was a friend of the President, and inclined to respect all his feelings, political or otherwise. He would vote for sending this bill to him now, believing that in the act they performed the will of the people of the country, and for which the President would thank them. He had had no communication with the President, but believed he would sign this, whatever was done with the bank bill. If no other measure were adopted, he would sanction this measure. Why pause? Where was the indelicacy or embarrassment to the President? This, if signed, became a law to-morrow. Would the people object to it if the Bank were not established? The issue was made between the Sub-Treasury and any other system of revenue. He (Mr. P.) would prefer any other plan to this; it had been decidedly condemned and should now be repealed.

Mr. BENTON said the ancient maxim quoted by the Senator from South Carolina (Mr. PRESTON) did not apply. It was for the President to object to our aid, and not for those to object who are pressing upon him. He and they may view our aid in a very different light. The Senator has carried me back to the Trojan horse for a maxim. He cannot object to me if I carry him back to a more remote time for an example—one more appropriate, and equally classic. I allude to the famous feast of the Lapithæ and Centaurs—that feast which began in a wedding, and ended in a fight, and to which Ovid has given immortality. There is a certain other feast (which we all know of) which may end in the same manner, and in which aid to one of the parties may be very welcome before the entertainment is over.\*

Mr. PRESTON. Not so; no fight among the Whigs. Their feast began in a wedding; and, like other weddings, it will end in a multiplication of the species.

Mr. BENTON. In bloody noses rather.

Mr. PRESTON. No; increased progeny.

Mr. BENTON. Then we shall have a great brood of young Centaurs.

Mr. EVES said he was not in his place when the debate commenced, and had not heard the previous remarks of gentlemen. For himself, he saw no reasonable consideration for post-

\* An allusion, intelligible at the time, to the impending rupture in the Whig party.

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poning any action on this subject. Without any communication with the President of the United States, he (Mr. R.) believed he would have no objection to having both measures before him; under any circumstances, he would do his duty to the people of the United States. He did not see that it was a necessary consequence, if they acted on this subject, that the President of the United States would be, in deliberating on another measure, without any alternative but its adoption. Gentlemen seemed to think that the amendments of the other House would be adopted as a matter of course. Was that so? Gentlemen would recollect, when the bill was passed, a provision of a similar character was acted on by the Senate and rejected. They would not accept of the Sub-Treasury which their opponents had held out in their hands as a plank to save the party now in power from the shipwreck which they anticipated for them; he believed neither the President nor those who acted with him, would accept of so slippery a plank as this. He (Mr. R.) should vote as he had done before, and if the majority of the Senate voted as they had done, they would simply repeal the Sub-Treasury, which had been condemned by an overwhelming majority of the people of this country. If this were so, the President was not left with the single alternative of approving the bill now in his hands. Whatever he would do, no person was less informed of than he (Mr. R.) was; he would state frankly that he had no knowledge, directly or indirectly, of the course of the President; but from his knowledge of the man he would say, that in whatever state of things this matter was presented to him, he would do his duty to his country. He thought, therefore, the course was plain—that was, to act on this measure. They acted on it in obedience to the will of the people, immediately after they met it had been kept till this time in the House, and now they should, in the same spirit of expedition, act on the amendments.

Mr. CALHOUN said he had moved the postponement, that the President might not be embarrassed. He took it for granted that the President would not wish to have the Treasury of the United States in his own hands. There could be no harm in this short delay; and they would be better prepared to act on this, after the disposition of the Bank bill. The Senator had said the amendments might be rejected. If this was probable, he would withdraw his motion; but he expected a different result.

Mr. RIVES said while gentlemen claimed to act in a spirit of peculiar kindness towards the President of the United States, he was induced to think that they were acting for another object, for the preservation of their scheme. In a contingency, which no man knew about, but if the contingency should arise, that the President should feel it a duty to the country and the constitution, to return the bill which is now in his hands, with his objections, they would be ready with their Sub-Treasury to stand on

that, and keep it still the law of the land, notwithstanding the overwhelming majority against it.

The question then recurred on the first amendment of the House, which repeals the act of 1836, "to regulate the deposits of the public money," except the 18th and 14th sections.

Mr. MERRICK had voted against a similar amendment when the bill was passed. He did it, however, under different circumstances; there was then no law, as had since been, as far as their action went, provided as a substitute for the Sub-Treasury, and he was prepared now to change his vote, and comply with the existing circumstances.

The question was then taken on the amendment, which was adopted—yeas 25, nays 23.

The question was then on the second amendment, which repeals so much of the act of 14th April 1836, making appropriations for the payment of Revolutionary and other pensioners, as provides that, after the 3d March 1837, no note of less denomination than ten dollars shall be offered in payment by the United States or the Post Office Department.

This was adopted, without debate, by the following vote:—yeas 26, nays 23.

The title of the bill having been altered so as to be for the repeal of the Sub-Treasury law, and for other purposes, the amendments were concurred in, and the bill was passed.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, August 11.

#### *Bankrupt Law.*

On motion of Mr. BARNARD, the House resolved itself into Committee of the Whole on the state of the Union, (Mr. TILLINGHAST, of Rhode Island, in the chair,) on the bill from the Senate to establish a uniform system of bankruptcy throughout the United States.

The pending question being the motion submitted by Mr. GORDON, of New York, to strike out the enacting clause of the bill—

Mr. FESSENDEN (who was entitled to the floor) addressed the committee, during the hour, urgently in favor of the passage of the bill.

He insisted on the power and the obligation of Congress to maintain such a law in operation at all times, and on the especial obligation resting on Congress to exercise its power at the present time for particular reasons—since, had it not been for the action of the General Government upon the currency, the country would not now have been laboring under the embarrassments and difficulties which pervaded every section of it.

He expressed himself opposed to all amendments that might be offered to the bill, and especially so to an amendment which had been indicated, including banking corporations. He was understood to declare himself in favor of such a principle at the proper time and in the

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proper place, but to contend that the two systems ought not to be combined; that there must be a separate system for individuals, and a separate system for corporations, in order to enable them to work well and in harmony. He believed that such an amendment, if now introduced into this bill, would be fatal to its passage. We knew, from what had already taken place at the other end of the Capitol, that it could not succeed; and he should suspect the motive of its introduction here to be a desire or design to defeat the bill itself. This bill had been well considered and well digested; it had been long under the consideration of the ablest minds of the country. We must (as had been remarked) set the ship afloat; we must launch it in the first place; it was idle to suppose that a measure so comprehensive, and covering so much ground as this, could be made perfect at once. Nothing but experience, nothing but a knowledge of its practical operation, could enable us to make it such as would meet every case; to free it from every difficulty, and to put it in such a shape as to meet every objection that might be raised against it. It would be better to carry the bill through as it came from the Senate, because he believed that, at this late period of the session, if an attempt was made to amend it, when there were so many exciting questions before them, Congress would rise without doing any thing on this subject to answer the expectations of the people of the United States.

This was emphatically a measure of *relief*; it was for the purposes of relief that this Congress had been convened. They had called themselves the relief Congress. He trusted that no gentleman on either side would deny that the people of this country had long been in a state in which they needed relief of some kind, and relief from *legislation*. If such was the fact, was it not manifest that no measure of the present session promised such direct and immediate relief as this? The other measures of the session—the Bank bill (which some gentlemen believed to be the sovereign panacea for our ills)—would take time before they could afford relief; but this bill would go into immediate operation.

Mr. F. after glancing briefly at the history of this subject in the United States, proceeded to argue at length the power of Congress over it, contending that the Constitution of the United States had conferred upon them the broadest, the most liberal, and the most comprehensive power in relation to it. From this point Mr. F. passed on to some general remarks on the provisions of the bill; and concluded by urging its passage on the ground of the benefits which it would confer on the creditors as well as on the debtors; as a measure called for alike by the feelings of humanity and by the great interests of the community.

Mr. LINN, of New York, said he did not rise to address the committee at large, or upon the merits of the bill. He left the discussion of

the principles involved in the measure to others. He had, for himself, and not without some deliberation and the solution of many doubts, concluded to give the measure his cordial support. He had looked at the question in its relations to the genius of the Government, the character of the people, and the exigencies of the times. He desired, at this time, to call the attention of the committee to some of the details of the bill, intending, at the proper time, to offer some amendments corresponding with the views he entertained. He could not consent to launch the ship, if he might be permitted to use the figure of his colleague, (Mr. BARNARD,) until he was quite sure she was seaworthy, and would not sink on her first voyage. Nor could he adopt the principle in legislation assumed by the gentleman who had just preceded him, (Mr. FESSENDEN,) by which he was to follow in the wake of some great mind, no matter where it conducted us. He could not consent thus to stultify himself, or to shut his eyes to defects in the details of the bill. There were defects in the bill, affecting the interests of both debtor and creditor, and some of which, he feared, would render the measure quite obnoxious to the very class of persons for whose benefit it was proposed. Although he would not say that a failure to amend would cause him to vote against the bill, he desired, as a sincere friend of the measure, to perfect it, and would, therefore, call the attention of the committee to such defects as seemed to him worthy of attention.

Mr. PENDLETON rose in reply. He declined going at large into a discussion of the merits of the bill, because all he had intended to say had already been better said by others. The bill was not perfect; nor was it reasonable to expect that, in framing an untried measure of so great difficulty as this, perfection should be attained. The gentleman had compared it to a ship about to be launched. Mr. P. said it was no sufficient objection to committing her to the bosom of the deep, that every spar might not have the requisite degree of taper, or that every rope might not run with perfect freedom through the block: if it was certain that the vessel would float; that she had the requisite amount of ballast; that her cargo would be safe, and the lives of her crew, let her be given to her destined element, and sent upon her voyage. These minor matters might be rectified after she had made a trip and tried her bearings, and been found seaworthy. If gentlemen were to wait till an untried measure was rendered perfect in their imagination before it was subjected to any experiment, an original law never could be enacted. Every gentleman must, to a certain extent, defer to the opinions of other gentlemen around him, else there would be no legislation. Why enter into debate if opinions were not to be compared? and why compare opinions if each man was determined obstinately to adhere to his own?

Mr. TRUMBULL said there were some objection-

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able provisions in the bill, to which he should have called the notice of the committee, if this had not already been done by other gentlemen. He thought it ought to contain such a provision as was contained in the act of 1800, giving the creditors of a bankrupt a voice in the appointment of his assignee.

One amendment had been proposed by the gentleman from New York, (Mr. ROOSEVELT,) which he should more particularly notice. It was that which went to include in the scope of the bill State corporations, and especially banks.

To this he objected, first, because it was now too late to urge it, the States had been for half a century in the habit of chartering these corporations. If it were now an original question whether we should have their paper as a currency, there might be more room for doubt; but it was too late in the day. The States surely were most competent to judge whether banks were or were not injurious to their respective communities; and if the States could create banks, they had also the power to supervise and preserve them. But if Congress, through the intervention of a bankrupt law, had it in its power to put an end to banking corporations just as fast as the State could create them, the power to incorporate was nugatory. The power to declare banks bankrupt had never been claimed by the General Government until since the recent suspension of specie payments. To do so by the intervention of Congress would be something entirely novel, although the States had claimed and exercised the power from the very date of the constitution. The indulgence to banks, as to continuing suspensions, which had been so much complained of and denounced, was not so much an indulgence to the banks themselves as to the communities in which they were situated. The banks of Mr. T.'s portion of the country had been able to resume and to continue specie payments; but it was at the solicitation of Government that they remained in a state of suspension. It was within Mr. T.'s personal knowledge that they had said to a committee of the Legislature, "If you advise us to resume, we will do it before night." The indulgence was not to the banks; it was to the community around them. Let the blame, then, if any, fall where it was merited. Many talked of the banks as the authors of all our difficulties and embarrassments; but Mr. T. thought it was an unjust imputation. Were the banks the authors of trade? or was trade the author of the banks? They were the mere instruments of the trade of a business community; to the spirit of trade they owed their creation; and whoever denounced them, virtually attacked the spirit of trade and commerce which so eminently distinguished our countrymen. The banks were controlled by the citizens; their excesses were owing not to the will and choice of the corporations themselves, but to the state of the country, its wide extent, its remote position in relation to the old transatlantic world; the vast multitude and variety of objects of speculation

and enterprise with which it everywhere abounded. It was a young country, and as such, faithful to all the stimulants which addressed themselves to youthful feelings. Its free institutions, both civil and religious, were its glory. It abolished all governmental establishment or patronage of any religious sect; no restriction was imposed upon conscience; but all men were left, in matters of faith and of religious observance, free as the air they breathed. Look at our common schools, the great sources of education; look at the fact that all, or nearly all, our population were able to read and write, and to conduct the ordinary transactions of business; look at the consequent prevalence of knowledge; the development of ingenuity which filled our land with labor-saving machinery; look at the abolition of primogeniture and entails; look at the ease with which property might be acquired; sum up all these things, existing simultaneously in one vast, free, wide-spread community, and need any one be astonished that banks should run into extravagance in discounts and circulation? To remedy these excesses, did gentlemen wish to prostrate all the banks in the country?

None but natural persons had ever been contemplated in the provisions of the constitution empowering Congress to pass a general bankrupt law; because at the time there were none other. The bankrupt law of England, so far from including corporations, expressly excluded them; and this was the only law in force at the adoption of the constitution. (Mr. T. here quoted the law.) The including bank corporations in the provisions of a general bankrupt law was a measure now for the first time proposed. There existed at that time many corporations in our country, such as schools, academies, and colleges. Did any man in his senses believe the constitution contemplated that these institutions were to be required to make discovery of their assets and suffer an assignment?

None of the motives which applied to a law for bankrupt individuals, in a trading community, applied to the case of corporations. One great motive in the case of debtors was a feeling of humanity and compassion toward them. But did these feelings respect a mere ideal person, the creature of law? The moment the law seized upon it the corporation itself became extinct. It was no longer in being to receive any benefit from the law, and could not be an object of sympathy as unfortunate men were. From a corporation thus extinct there could be no hope of payment; the corporation was at an end. There was no inducement for a corporation to make an assignment, because it did not survive to receive any benefit. With regard to bankrupts, one great inducement for making a general law was to prevent debtors from evading their debts by removing into another State; but a corporation was fixed, and could not remove. When a man received the

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benefit of such an act, it was with the hope that, being relieved from embarrassment, he might again become useful and active as a citizen; but a corporation was defunct, and never could act again.

Mr. T. believed that Congress had no power to include banks in the law; but if they had, all these were so many considerations to show it ought not to be exercised.

Mr. T. objected to that portion of the bill which related to compulsory bankruptcy; if it was intended for the benefit of creditors, it was much more restricted in its provisions than the previous act of 1800. If that was the true end in view, why these alterations? But Mr. T. was convinced that the protection of creditors was not the chief object of this bill; that part of the bill was a ship, to be used merely for the purpose of carrying the other portions which related to voluntary bankruptcy. But for the latter, he rather thought this bill would have but few advocates, there or elsewhere.

Now, as to the term "voluntary bankruptcy," when he first read the words he did not really know what they meant. He could indeed conceive of a man's voluntarily becoming a bankrupt, provided his object was fraudulent; but, otherwise, the phrase was incomprehensible to him. What would some of the venerable sages of 1789 have said to this term? What would Chief Justice Ellsworth have said to a man who talked to him of "voluntary bankruptcy?" Who ever heard of such language before? Heretofore the idea of a bankrupt was that of a man whose property was taken to pay his creditors. If a man had borrowed money, and was seen to be squandering it, the man who loaned it to him might require a surrender of his property to secure payment; and, on condition of such surrender, the debtor might be discharged. The proposition always came from the lender; the object was to get his money back, and to discharge the debtor. But gentlemen said it was a discharge of the debtor, to be sure, but not of the contract. Well, if Mr. T. owed a gentleman \$1,000, and had given his note for the money, the gentleman might keep his note in all its virtue, provided Mr. T. got his discharge. It was said that the creditors stood in the nature of an insurer; that he believed the debtor was able to pay, and that, if he was not, he must surrender his property. Mr. T. admitted that such was the contract, as under this law; but it amounted to a discharge to all intents and purposes as soon as the property was surrendered. Nor did Mr. T. object to this. If this law was expedient at all, it ought so to provide. But he insisted that it was an entirely new principle for a bankrupt to be allowed to discharge himself. Under this law, the discharging of the debtor was the principal thing aimed at, and the surrender of his property was merely an incident. In former bankrupt laws, the object was the surrender of the property, and the discharge of the debtor was the incident.

The power of the creditor, under this bill, never would, in practice, be exercised at all. All the cases specified as conditions for its exercise were cases of personal fraud on the part of the debtor. And would the fraudulent debtor, who could choose his own time, and arrange his own plan to suit himself, manage his fraud so clumsily as to put himself within the power of his creditor under this law? Never. Let this bill pass, and one of the most profitable things a man could do would be to break in business. (In fact it was a pretty good branch of business as things stood now.)

The bill extended to all classes of men. It was not merely a provision for mercantile men, but for doctors and lawyers, and all sorts of persons who lived by their heads or by their hands. The capital of such persons was their head: how much of it would they surrender to their creditors? And how much would the creditor make by selling it at auction? The debtor would have precisely the same capital after his surrender as he had before.

There was another objection to the bill. The debtor would be able to control the creditor. The bill reversed the wisdom of Solomon, who had declared that "the borrower is slave to the lender;" but by this bill the lender would be slave to the borrower. How was he to get back his money? Was he to sue? Yes. But the man replies, "I am insolvent, and I demand my discharge." Mr. T. knew what the answer would be; and it was a very proper answer as far as it went. He should be told that we are bound to presume that debtors (American debtors) are all honest. Now, Mr. T. was prepared to admit that they were as honest as their creditors. He did not feel required to admit any thing more. But if men were all honest, where was the need of this law, or for any other law in relation to property? The law, confessedly, was made for men who were not honest. Law was made for the lawless.

Mr. PAYNE, of Alabama, addressed the committee in a few brief remarks, in which he said that he was not opposed to a bankrupt bill, if properly drawn; but he objected strongly to the passage of this on the score of details. Especially, he objected to the 4th section, releasing a principal whilst it held the endorser bound. No people under the canopy of Heaven could stand such a provision, and he gave notice that, unless it were stricken out, he would vote against the bill. He also indicated an amendment which, he said, he would offer to this section at the proper time.

Mr. P. replied to the argument which had been urged, that to include banking corporations in the bill would be to interfere with the sovereignty of the States. He admitted that there was validity in the objection, yet contended that the bill gave to these corporations an indirect blow by releasing all their debtors. For this reason, a provision in relation to these corporations ought to be inserted; and if this,

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also, was not done, he should vote against the bill.

IN SENATE.

THURSDAY, August 12.

*Oregon Convention Notice.*

The resolution submitted by Mr. LINN in relation to the possession of Oregon Territory, was then taken up.

Mr. LINN made a few remarks, showing the vast importance to this country of some step being taken in relation to this subject. It had been suggested that the resolution might appear indelicate towards the President. If so, and gentlemen thought it better to refer it to the Committee on Foreign Relations, he would agree to do so, and he left that matter in the hands of the Senate.

Messrs. BENTON and SEVIER made a few observations in favor of the resolution.

Mr. PRESTON thought the resolution would require more consideration, as it involved matter of national import, when

Mr. LINN agreed to pass it over informally for the present.

*Land Distribution Bill.*

The land bill was then taken up, the question pending being the amendment offered by Mr. LINN to appropriate the proceeds of the lands to the public defence.

Mr. LINN continued his remarks in support of the proposition made by him to change the destination of the public lands from a distribution among the States, (or rather among the stockjobbers who hold the State bonds, who expect to get from the State taxes all that the distribution enables their treasuries to dispose of,) to the defence of the States. He took a rapid glance at the posture in which this Government stood in relation to the great duty for which it was formed—the *common defence*. The accumulated causes of quarrel, which Great Britain has been heaping up from year to year, left little doubt on Mr. LINN's mind that they never would be settled without conflict. The tenacity with which she has kept possession of the invaded portion of Maine now supported with troops, marks the design of England to make conquest of it. The conflagration of the Caroline, and the murder of some on board, and the arrogant demand of impunity for the perpetrators of the crime, was alluded to by Mr. L. as another of the indications of that temper which threatened difficulties. The permanent encroachments in progress by the British on the Oregon Territory, which the United States could never acquiesce in, was another dangerous symptom. The tampering with Abolitionists in this country by societies in England, under the countenance of the heads of the Government, and the renewal of the always resisted right of search, under the pretext of detecting slavers on the coast of Africa, were all adverted to as signs, that we could not rely

upon the pacific disposition of the jealous rival, whose trade is war, unless we were prepared to encounter it in such a way as to prevent it from gaining greater advantages from aggression than by peace.

Mr. L. then touched upon the exposed condition of the country—recurred to the refusal of those now in power, to devote the surplus to the common defence, preferring to distribute it among the States which it had only tempted into lavish expenditure. The proceeds of the lands it was now proposed should fall into the same hands that made way with the surplus, without benefit to any but the speculating classes. He contrasted the purposes for which distributions were made, with the patriotic design contemplated by the amendment, which would give them to put the nation in a condition to defy its enemies—to maintain its honor and interest with peace—or if war were unavoidable, preserve the lives of thousands who would be sacrificed if the nation were found unprepared for it. Mr. LINN adverted to the grovelling, mercenary, selfish political schemes to which the means of public defence had been sacrificed—the corrupt electioneering of which we had such an example in the last campaign, which he did not hesitate to pronounce to be “*infamous*.” From such detestable scrambles he would preserve the sacred fund, which was bequeathed by the States of the Confederacy to the Union for the common defence.

Mr. BENTON followed; and, after strongly contrasting the object of the bill and the amendment—the one intended to strip and plunder the country, the other to defend it—after contrasting these two objects, both as to the constitutionality and expediency, he went warmly and vehemently into the necessity of defence *now*, and took two points in the state of our relations with Great Britain as requiring this immediate preparation. He said he omitted, on purpose, all the well-known points of difference between the two countries, for the purpose of bringing forward two subjects on which the public mind was yet too little informed and too little awakened. One of these subjects was the Columbia River question; the other related to the organized attempts now made in London to excite a negro insurrection in our Southern States. On the first of these heads, he showed that the Oregon Convention of 1818, first made for ten years, and subsequently continued without limitation of time, but subject to be terminated on notice given by either party, was unequal and fallacious. He showed that this convention was illusory and deceptive; that the *joint* occupation, in fact, only extended to American territory, American rivers, and American harbors; and that from these, Americans were all expelled, with the loss of more than five hundred lives, and an immense waste of property; leaving to the British the exclusive possession, not only of her own, but of all the American territory besides. He said this state of things must be

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remedied; that his colleague had taken the first and proper step, in moving to give notice for the termination of the convention; and this notice must be attended with the proper preparations to give it emphasis, or the British would treat it with contempt, and hold on to our territory in defiance of us, even after the convention was at an end.

The other cause for immediate preparations, Mr. B. enforced by pointing to the organized Abolition Societies now in London, and the appointment of Lord Mountcashel (who was in favor of exciting both savage and servile war against us) to be Governor General of Canada. On this point Mr. B. brought the warning voice of experience to his aid, and showed, from Edwards' History of the West Indies, that the insurrection of San Domingo was made, *first*, by the Anti-Slavery Society of London, which held its meetings at the Old Jewry; *secondly*, by the Society of *Les Ami des Noirs* in Paris; *thirdly*, by the letter of the Abbé Gregoire, sent to the people of color in the island of San Domingo. He showed that these, and especially the London Society, were the architects of that insurrection. He read many harrowing passages from the description of the insurrection; and showed that the London Society, now at work to make insurrection here, was doing every thing which their predecessors at the Old Jewry did, and was far more formidable, and infinitely more to be dreaded. He then adverted to the appointment of Lord Mountcashel to be Governor General of Canada—spoke of his horrid declarations in Parliament in favor of savage war and negro insurrection; and said if there was no Earl of Chatham now in the House of Lords to rebuke such inhuman and diabolical sentiments, the American Senate should not be silent. The American Senate, and all America, should rise up to denounce such sentiments—to brand their author—and to consider and prepare for the dire results.

The question was then taken on Mr. LINN's amendment, and decided in the negative, as follows:

YEAS.—Messrs. Allen, Benton, Calhoun, Clay of Alabama, Cuthbert, Fulton, King, Linn, McRoberts, Mouton, Pierce, Sevier, Tappan, Walker, Williams, Woodbury, Wright, and Young—18.

NAYS.—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Buchanan, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Huntington, Ker, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Prentiss, Rives, Smith of Indiana, Simmons, Southard, Sturgeon, Tallmadge, and White—28.

Mr. STURGEON, of Pennsylvania, after stating that he was instructed by his State Legislature to support a distribution of the proceeds of the public lands on certain conditions, moved an amendment of the bill, in compliance with the instructions. The amendment proposed to strike out the ten per cent. given to the new States.

Mr. WALKER resisted this amendment with much earnestness, and demonstrated that the

new States were entitled not only to ten, but to twenty per cent., from the rapid increase of their population.

Mr. BUCHANAN said he should vote for the amendments proposed by his friend and colleague, (Mr. STURGEON;) and if they were adopted, he should then vote for the bill, in obedience to the instructions of the Legislature of Pennsylvania. These instructions were plain and explicit on their face. There could be no doubt about the import of the language which they employed. Mr. B. then read the instructions.

Instructed as he was, and unable to express his own opinions without violating these instructions, he had purposely forbore from entering into the general discussion. He would, however, submit another remark, which might explain his future votes. The Legislature had instructed him to resist all attempts to deprive the people of Pennsylvania of their just proportion of the public lands. Without any instruction he should have acted in this manner: and he must say that, if the bill now before the committee were unequal and unjust, the amendment which the Senator from South Carolina (Mr. CALHOUN) had given notice that he would offer, to cede the public lands to the new States, on certain conditions, was still more unequal and unjust towards the old States; and, with or without instructions, it should meet his decided negative.

Had he been at liberty to act upon his own judgment, he should have most cheerfully voted for the amendment of the Senator from Missouri, (Mr. LINN,) pledging the proceeds of these lands as a sacred fund for national defence. There was a peculiar propriety in devoting these lands, which had been purchased by the valor and blood of our ancestors, to the maintenance of the national safety and national glory of their descendants. With this money you might increase your navy, complete your fortifications, and prepare for war; and you would thus distribute its benefits more equally and justly among the people, than you could do in any other manner. He was sorry, therefore, that his instructions had compelled him to vote against this amendment.

Mr. CLAY entreated the Senators from Pennsylvania to reconsider the decision, and see if they would, in reality, comply with the intentions of their Legislature in voting against the bill. Did that Legislature contemplate so impracticable a bill, as these amendments would render it, when they required them to support a distribution bill? He moreover called on them to reconsider their decision, as he was afraid the bill would be lost without their votes; whereas, with them, it might be passed.

Mr. BUCHANAN said he had turned to his friend from Missouri (Mr. LINN) just before the Senator from Kentucky had risen, and expressed his astonishment that he (Mr. CLAY) should have permitted any legislative instructions to be presented to the body, which he might sup-



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pose to be disagreeable to the Senators instructed, without interposing his opinion and advice. He believed that the Senator had never suffered such an occasion to pass without interfering in this manner between Senators and their constituents. He thanked him for his kind offices, and for the interest which he manifested in his (Mr. B.'s) welfare. He would be pleased to have the Senator as a friend upon terms of perfect equality; but not as a master. We had witnessed enough to convince us that he was a severe master.

Mr. CLAY. Ask Charley if I am not a kind master.

Mr. BUCHANAN said, Charley had been so often brought before the Senate and the country by the Senator, that he was now almost as notorious as his master. He would reciprocate the kindness of the Senator, and in turn give him a little good advice. He (Mr. CLAY) had already said enough about Charley; and if he wished to spare himself and his political friends from the shafts of ridicule which were aimed at him and them in the public journals all over the country, he would never hereafter, on this floor, mention the name of that well-known individual.

He, Mr. B., intended, in good faith, either to obey instructions or to resign his seat. His constituents must, by this time, have been fully convinced of his fidelity to this doctrine. He had often manifested his faith by his works; and never upon a more trying occasion than when he had voted at the present session in favor of the repeal of the Independent Treasury. Such was the just devotion of the Democracy of Pennsylvania to this wise and salutary measure, that he had subjected himself to some reproach among his own political friends on account of this vote, although none of them could deny that he had acted in obedience to one of the fundamental doctrines of the party to which he and they belonged.

Mr. STURGEON then proposed another amendment in accordance with his instructions, which was also voted down.

Mr. ACHER moved to amend the bill by striking from the 8th section that clause which renders the disposition of funds obligatory for roads, bridges, canals, &c., which when made, were to be made free for the use of the United States in transporting the mail, munitions of war, &c.

This proposition led to a long debate, in which Messrs. WHITE, SMITH of Indiana, CLAY, HUNTINGTON, BENTON, and SEVIER participated, when, without taking any question,

On motion of Mr. MANGUM,  
The Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, August 12.

#### Bankrupt Law.

On motion of Mr. BARNARD, the House again resolved itself into Committee of the Whole on

the state of the Union, (Mr. TILLINGHAST, of Rhode Island, in the chair,) on the bill from the Senate to provide for the establishment of a uniform system of bankruptcy throughout the United States.

Mr. BARNARD offered the following resolution:

*Resolved*, That on Friday next, the 18th instant, at 12 o'clock meridian, all debate in Committee of the Whole on the state of the Union, on Senate bill No. 8, to establish a uniform system of bankruptcy throughout the United States, shall cease, and the committee shall then proceed to vote on any question then pending, and on any amendment then pending, or that may be offered, and shall then report said bill to the House, with such amendments as may have been agreed to by the committee: *Provided*, That nothing in this resolution shall preclude the committee from reporting said bill at an earlier hour.

Mr. WISE moved to amend the resolution by striking out the words "Friday next, at 12 o'clock meridian," and inserting "to-day, at 8 o'clock, P. M."

And the question being taken on the amendment, the vote stood—ayes 27, noes 64.

But no quorum voted.

Mr. WELLER moved a call of the House; which was ordered.

And the roll having been called, 123 members answered to their names.

And the names of the absentees having been called, 156 members appeared to be present.

And more than a quorum being now present, all further proceedings on the call were, on motion of Mr. WELLER, suspended.

And the question recurring on the amendment to the resolution—

Mr. BARNARD asked the previous question; and there was a second.

And the main question was ordered to be taken.

And the main question (being first on the amendment of Mr. WISE) was taken, and decided in the negative.

So the amendment was rejected.

And the question recurring on the adoption of the resolution—

Mr. ANDREWS, of Kentucky, moved to lay it on the table; which motion was decided in the negative—ayes 56, noes 99.

So the resolution was *not* laid on the table.

And the question recurring on its adoption—

Mr. JAMES asked the yeas and nays; which were ordered, and, being taken, were—yeas 78, nays 89.

So the resolution was not adopted.

Mr. MILTON BROWN rose, and addressed the committee up to the expiration of his hour in support of the bill; advocating both the constitutionality and expediency of the measure.

Mr. B. dwelt upon the policy of granting an insolvent debtor a full discharge, as that which was most likely to secure the interests of the creditor. He adverted to the intuitive love of freedom and the resistance to oppressive force

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which so strongly marked our countrymen, and to the far stronger influence of feelings of honor and gratitude over those of degradation and fear. It had once been deemed necessary and just to imprison the debtor; this was now abrogated, as a relic of barbarism. To retain an endless lien upon all the future efforts and acquisitions of the debtor was little better: for it reduced him, in effect, to the condition of a slave. If it was said that, when a creditor trusted his property, he looked for his security rather to the honor and integrity of his debtor than to his property, Mr. B. replied, very well; let him continue so to look; this bill did not interfere with such reliance in the least. Mr. B. had had some experience in the collecting of debts; and he had found that honest debtors were far readier to pay on an appeal to their honor than under coercion of law. The bill was well guarded; yet still it might release some creditors who were dishonest, and whose conduct had been fraudulent; even if this were the case, it would be better that some such characters should escape, than, for the sake of punishing them, multitudes of honest but unfortunate men should be subjected to endless bondage. The rain from Heaven fell on the evil together with the good; and some tares were suffered to grow, rather than the wheat should be rooted up. If a rogue escaped now and then, let him go; there was a tribunal whose judgment he could not evade.

Mr. POPE observed that there seemed a very decided disposition to pass this bill; and he therefore felt bound to state that it contained some principles which, if he rightly understood them, he never could endorse. The voluntary portion of the bill, as it had been called, seemed to be the most popular; but to him it seemed to be in hostility with the constitution, or at least wholly unsupported by that instrument. It went to affect all existing contracts, and to interfere with the relations of debtor and creditor. As to honest debtors, after some observation, he could say that he never had known them to be treated with oppression by creditors. Imprisonment for debt he had always been opposed to; he considered it as utterly opposed to the genius of our Government and the character of our people; nor did he believe that much was ever made out of a compulsory surrender of the debtor's goods, or from the estate of a bankrupt. If he was called on to give a title to this bill, he should call it a bill for the benefit of lawyers, commissioners, assignees, clerks, sheriffs, and their associates and dependents; these, he believed, would be the persons who would make the most out of it, while neither debtors nor creditors would get much of the spoils. Though young at the time, he had witnessed the practical effects of the law of 1800, and had seen large estates eaten up by lawyers and others appointed to take the charge of them, while neither creditor nor debtor in the end got one dollar of the proceeds.

He objected to the bill as bringing creditors within the jurisdiction of the Federal courts, which often sat one or two hundred miles off from their homes; this never had been intended by the constitution. The jurisdiction of these courts ought to be confined to matters of a national character, or to cases between citizens of different States; but never, were intended to be resorted to by neighbors, citizens of the same State. A debtor might draw all his immediate neighbors, to whom he was in debt, away to a Federal court two hundred miles distant. Farmers would be slow in tackling up their wagons on such a journey, and would rather risk the loss of their debt, of which they would not be very sanguine, after receiving notice that the man was a bankrupt. It might enrich lawyers, but he did not know anybody else that would be likely to get much good by it. The best way, in general, was to leave a debtor alone; he was likely to make ten times more for his creditors than when hunted by sheriffs and fleeced by lawyers. The fine pictures, taken from novels, of the cruelty of iron-hearted creditors over poor and honest debtors, had mighty little effect, the Governor said, upon him; he did not believe in them.

Mr. WELLER moved that the House adjourn; but withdrew the motion, to enable

Mr. WISE to move that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bankrupt bill; on which motion Mr. W. moved the previous question.

Mr. HOLMES said he opposed this motion, unless gentlemen would pledge themselves not to call for the previous question when the bill should come into the House. He hoped a measure of this importance was not to be forced through without sufficient discussion.

Mr. ADAMS observed that the gentleman need not trouble himself—there was no quorum to vote.

The House then adjourned.

FRIDAY, August 13.

*Bankrupt Law.*

The House, on motion of Mr. BARNARD, again resolved itself into Committee of the Whole on the state of the Union, (Mr. TILLINGHAST, of Rhode Island, in the chair,) on the bill from the Senate to establish a uniform system of bankruptcy throughout the United States.

The pending question being on the motion of Mr. GORDON to strike out the enacting clause of the bill,

Mr. BIRDSEYE took the floor, and spoke very earnestly up to the expiration of his hour, in favor of the bill.

Mr. MCKAY briefly stated the grounds on which he was opposed to the passage of the bill. He admitted the power to pass a general law to be in the constitution, but reminded Mr. ALLEN (who had expressed surprise that any

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doubt should be felt about a matter so plain to him) that great differences of opinion had existed, from the beginning, as to the extent of the power. The power was to pass a bankrupt law, but the question arose what a bankrupt law meant. To answer this question, he went to the English laws. The term was taken, like many others in the constitution, "*habeas corpus*," "piracy," "felony," &c., from the laws of Great Britain. On this point, he quoted Kent's Commentaries in illustration. He contended that the understanding in relation to the law intended by the constitution had, ever since 1789, been a law relating to traders only. That was the character of the law passed in 1800; and, in fact, this very characteristic had caused its repeal in 1803, for it was objected to as being partial, and applying only to one class of society. No attempt was heard of to extend the system to farmers, mechanics, and others, till 1827, when a section had been introduced for that purpose, and then the bill was rejected as being unconstitutional.

Mr. McK. strongly objected to the bill, as assuming jurisdiction over the whole relations of debtor and creditor throughout the country, abolishing the insolvent laws of all the States, &c. He could not vote for it unless the "voluntary" portion of the bill was stricken out. He again quoted Chancellor Kent and Lord Eldon as to the extent of frauds even under the British laws, and also the returns made in 1802-'3, in reference to the same subject, in this country, which went to show how little was obtained by creditors under the effects of that law. He objected very decidedly to that portion of the bill which gave jurisdiction of bankrupt cases to the District Courts of the United States, as subjecting both creditors and debtors to enormous expenses, and also as favorable to the perpetration of frauds. All the cases in a State of the extent of North Carolina must go before a single judge. The bill would never work well, if at all, in practice.

Besides all these objections, Mr. McK. never could vote for the bill unless it was made to cover the case of banking corporations. He insisted that Congress had the power to do this; and that, if they had the power, it was their duty to exercise it.

Mr. Wise said he felt very indifferent as to the fate of the bill, although he felt very sincere sympathy for the debtor class of his fellow-citizens. He was willing that those who wanted the bill should have it; but as it did not suit his constituents, they must get it without his vote. A bankrupt bill was not suited to the business and habits of an agricultural people, and its provisions were incompatible with the interests of the corn planter, the tobacco and cotton planter. He felt a sincere sympathy for the unfortunate debtors of the country, and therefore would throw no obstacles in the way of the bill; but it was because he did feel that sincere sympathy for that class of his fellow-citizens, that he would not keep them upon

tender hooks—he would not sport with their feelings for party purposes, nor seek to make political capital out of the hopes, desires, and expectations of the unfortunate poor. What did he mean? I mean to tell them, said he—and if I had a trumpet voice, it should reach every log-house in which a poor debtor lives, though bankrupts do not live in log-houses—but I mean to tell every poor debtor whose eyes, and perhaps tearful eyes, are turned to this House—whose hopes are flattered to be betrayed, that he will get no bankrupt bill this session. I will give him no secret reason for this opinion. I will tell him that those who have all along pretended to be the friends of this bill, and have expressed so much sympathy for the distresses of the poor bankrupts, merely meant to make use of this bill as so much political capital—that is, they will pass it or not in a certain contingency, and the odds are against it. With a large portion of the people of this country this bill would be popular, and he believed that with a much larger portion its repeal would be still more popular.

Gentlemen told him that there were five hundred thousand bankrupts in a land teeming with sources of wealth. But how many creditors had these five hundred thousand bankrupts? The minimum was at least five to each one. Now, said he, if you multiply five hundred thousand by five, you will have two millions five hundred thousand who will be for the repeal. You cannot, therefore, do much mischief with this bill, if there be any mischief in it, for if its passage now would be popular, its repeal would be still more so. It had been calculated that the political influence of the bankrupts in this country would turn the scale in five States which gave eighty-nine electoral votes in the last Presidential election. In these five States the whole number of votes polled was nine hundred thousand. The Whig majority was eighteen thousand—number necessary to change that majority nine thousand, and that number was only one per cent. on the number of votes polled. Mark you, gentlemen, one in one hundred—nine in nine hundred—changes many other questions of policy in this country. New York, Maine, Pennsylvania, and two other States, were embraced in this calculation; and let the weight of the bankrupts now be felt, and in feeling their weight, let gentlemen see how weighty a matter little things may be in all questions, as well as questions of bankruptcy. If you are wise, and you will be cautious and prudent, do not imagine yourselves to be omnipotent. There was some delusion in the triumph which you obtained last fall. Take warning, then, from the fact that the change of one in a hundred can produce such decisive results.

He gave the bankrupts warning that they had been weighed, and with very great nicety, in the scales, not of justice, but of political influence, and he feared it would be found that their scale kicked the beam. They were now

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like mice in the receiver of an air pump, being experimented upon. While haste and precipitation had marked the proceedings of the House in reference to every other bill of the session, on this alone gentlemen seemed to think themselves at liberty to trifle.

When he should hear a good reason assigned why the bill should not be passed this day, then he had another speech to make. The bill might do very well for merchants and traders, but it never would do for tobacco planters, and corn growers. Yet, though he could not vote for the bankrupts' bill he would not torture them by suspense. Their bill, he would tell them, would fail; and it was time they knew it. It was time their hopes were arrested in their upward flight, so that when they did fall, it might be with a less destructive force.

Mr. BRIGGS entirely dissented from the view just expressed by the gentleman from Virginia. The House had had this bill but four days under its consideration, during which time its merits had been discussed with candor, temper, and fairness. The remarks which had just fallen from the gentleman from Virginia were the only indication which had yet appeared of a desire to connect the bill with party politics. That gentleman had intimated that the friends of the bill were playing a political game with an unfortunate class of their fellow-men.

Mr. WISE. I said no such thing. [Cries of "yes—oh yes—you did."] I said that some who *pretended* to be the friends of this bill were engaged in such a game. I never said that of the real friends of the measure.

Mr. BRIGGS resumed, and said he was glad to find that the gentleman exempted the friends of the bill from such a charge; and he sincerely hoped, notwithstanding the gentleman's ominous prophesyings, that a majority of the House would be found to be true friends to the bill, and to the bankrupts whom it was intended to relieve.

Mr. WHITE, of Indiana, would confine his remarks to the general principles of the bill. He stood in a peculiar attitude in relation to this measure: he was very desirous of expressing here the wishes of his constituents; but they had made no communication to him of their views or wishes on the subject. Thus left to the dictates of his own judgment, was he to fold his hands, and refuse to take any part in a measure of so beneficial a character? No; the patriotism of Indiana was not of such a cast: it was broader in its range than the limits of the State: it was as bold and migratory as the character of the inhabitants themselves.

Mr. W. took the ground that Congress, having clearly received the power to pass a general bankrupt law, were bound to exercise the power whenever the case should arise which called for its exertion: and in proof that it had arisen, he pointed the committee to the general condition of the business community throughout our country, and to the general cry for relief which came up from all parts of the land. True, a

partial relief might be obtained by each individual from his own State, but the moment he stepped over the line the protection ceased. The general object never could be effected but by a law of Congress.

Mr. W. continued his remarks in support of the bill with much earnestness up to the expiration of his hour.

Mr. WILLIAMS, of Maryland, said this bill treats it as fraudulent to show a preference among creditors; yet in flagrant violation of *principle*, upon which it purports to be founded, it actually enjoins unreasonable preferences in certain cases. Creditors, of a particular class, for a debt not exceeding twenty-five dollars, and not over six months' standing, are to be paid in *full*; if, however, the creditor, from a humane disposition to indulge his debtor, let a single day pass beyond the six months, he is to come in only for the pittance of a dividend. The creditor for twenty-five dollars may receive his entire debt; but the like small creditor for any sum greater than twenty-five dollars, though the person may in fact be more deserving and most needy, may lose the whole of his debt. The United States are declared to be a *preferred* creditor in all cases, and their claims may absorb all the assets of the bankrupt. Is this fair? Is it doing justice to the rights of the other creditors?

A bankrupt is proved in all things to have acted in good faith; his honesty and his misfortunes are acknowledged and unquestioned: yet he can *never* obtain a certificate of discharge from his debts, because he, being a self-made man and a poor scholar, has not kept "proper books of account." In consequence of his honest ignorance of the "*proper*" system of keeping book accounts, he shall never be discharged! This seems like a revival of the law for allowing the benefit of clergy.

The fourth section says that the bankrupt's certificate of discharge may be pleaded as a bar to all suits against him. Well, he thinks he is safe when he has once obtained that certificate; but not so;—a little further on, the same section says that it shall be conclusive, *unless* "the same shall be impeached for some fraud, or wilful concealment, &c.;" that is to say, it may, at any and *all times* thereafter, be impeached and questioned! The unhappy bankrupt, involved by the operation of this bill in interminable litigation, may be persecuted, court after court, and year after year, until death, more merciful than the law, relieves his sufferings forever. The same section further provides that "such bankrupt shall, *at all times*, be subject to *examination* orally, or upon written interrogatories, *in and before* said court, &c." He is or may be doomed to perpetual vexation, and to the tortures of a never-ending *inquisition*! If you pass this bill, you will place the unfortunate bankrupt within the iron grasp of a Federal court, which may never release its hold. The *States* are the proper guardians of the life, liberty, and property of

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the citizen; but you will take from their tribunals all power to afford him relief or protection. Still, it is pretended by some who style themselves friends to the petitioners, that this bill is for the speedy and effectual relief of unfortunate debtors, both now and in time to come. It is a delusion—a mockery of misfortune. It is but the introduction of a complicated, ambiguous, vexatious, and expensive system, which will aggravate, instead of relieving, the sufferings of insolvent debtors. Instead of giving freedom to enterprise, it will rivet more strongly the shackles by which it is confined.

The district courts and circuit courts of the United States are both to exercise jurisdiction over the bankrupts, and, in some instances, concurrent jurisdiction. They are to be declared in *permanent* session, without any recess or vacation! They are held in many cases, at a great distance from the residences of the debtors, and therefore this bill entails not only large fees to officers and attorneys, but heavy and repeated expenses for board and travelling, in far and frequent journeys, occasioned by the inevitable delays of courts and counsels. What means has the honest bankrupt, who has surrendered every thing, wherewith to defray those charges?

The Federal courts are to be made by this bill to resemble, in some degree, those of the Turkish Cadi. They are clothed with extensive powers as to *judicial legislation*; and their arbitrary will, or caprice, is, in many respects, to be the only rule. At best, years must elapse, in the press of business growing out of the vast number of applications, before thousands of debtors can promise themselves a final hearing. The courts will exhibit a ceaseless throng of suitors, and a scene of unexampled litigation. These tribunals are to conduct their proceedings, also, according to the practice of courts of chancery—and some of the blessings, rather say curses, which many of the petitioners are to derive from this measure, if it be permitted to become a law, are complex and protracted suits in *chancery*, to consume their time, their health, and all their future earnings! What folly, then, to insert in the bill, “shall be brought to a close” by the court “within two years,” after the decree of bankruptcy, “IF PRACTICABLE.” Mere inoperative words.

The country must be burdened, too, with a little standing army of judges and officers, the present limited number being totally insufficient for the purposes contemplated.

How, then, can any real friend to the suffering bankrupt, whose spirit is already drooping and desponding, vote for a bill which must make his condition worse—a rash *experiment*, which is obnoxious to such objections, and to be fraught with such baneful consequences? He who has been unfortunate once, may be visited with misfortune again; and, without being guilty of fraud or imprudence, may become ruined a second time. What is the mea-

sure of relief proposed to be extended to him? Read it in these words: “He shall *not* again be entitled to a discharge under *this* act, unless his estate shall produce (after all charges) sufficient to pay *every* creditor *SEVENTY-FIVE* per cent.”

It provides for *compulsory* as well as voluntary bankruptcy. It is partly taken from the British system. A British bankrupt law may suit the notions and habits of British royalists, but it will not be tolerated by American Republicans.

An honorable member from Kentucky (Mr. POPE) was understood to say that the title should be, “An act for the benefit of lawyers, clerks, &c.” It might be further amended by prefixing the word “banks,” for *MONEYED CORPORATIONS*, sometimes consisting of only a few individuals, are exempt from all operation of its provisions to their prejudice, whilst at the same time those institutions will be the chief creditors, to enforce these provisions against debtors who shall dare to question their corporate will, or refuse to obey their dictates.

## IN SENATE.

MONDAY, August 16.

*Veto on the Fiscal Bank.*

The Message was read as follows:

*Message of the President, returning, with his Objections, the Bill to Incorporate the Fiscal Bank of the United States.*

*To the Senate of the United States:*

The bill entitled “An act to incorporate the subscribers to the Fiscal Bank of the United States,” which originated in the Senate, has been considered by me, with a sincere desire to conform my action in regard to it, to that of the two Houses of Congress. By the constitution it is made my duty, either to approve the bill by signing it, or to return it with my objections to the House in which it originated. I cannot conscientiously give it my approval, and I proceed to discharge the duty required of me by the constitution—to give my reasons for disapproving.

The power of Congress to create a National Bank to operate *per se* over the Union, has been a question of dispute from the origin of our Government. Men most justly and deservedly esteemed for their high intellectual endowments, their virtue, and their patriotism, have, in regard to it, entertained different and conflicting opinions. Congresses have differed. The approval of one President has been followed by the disapproval of another. The people at different times have acquiesced in decisions both for and against. The country has been, and still is, deeply agitated by this unsettled question. It will suffice for me to say that my own opinion has been uniformly proclaimed to be against the exercise of any such power by this Government. On all suitable occasions, during a period of twenty-five years, the opinions thus entertained have been unreservedly expressed. I declared it in the Legislature of my native state. In the House of Representatives of the United States it has been openly vindicated by me. In the Senate chamber,

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In the presence and hearing of many who are at this time members of that body, it has been affirmed and reaffirmed, in speeches and reports there made, and by votes there recorded. In popular assemblies I have unhesitatingly announced it; and the last public declaration which I made, and that but a short time before the late Presidential election, I referred to, my previously expressed opinions as being those then entertained by me; with a full knowledge of the opinions thus entertained, and never concealed, I was elected by the people Vice President of the United States. By the occurrence of a contingency provided for by the constitution, and arising under an impressive dispensation of Providence, I succeeded to the Presidential office. Before entering upon the duties of that office, I took an oath that I would "preserve, protect, and defend the Constitution of the United States." Entertaining the opinions alluded to, and having taken this oath, the Senate and the country will see that I could not give my sanction to a measure of the character described, without surrendering all claim to the respect of honorable men—all confidence on the part of the people—all self-respect—all regard for moral and religious obligations; without an observance of which no Government can be prosperous, and no people can be happy. It would be to commit a crime which I would not wilfully commit to gain any earthly reward, and which would justly subject me to the ridicule and scorn of all virtuous men.

I deem it entirely unnecessary, at this time, to enter upon the reasons which have brought to mind to the convictions I feel and entertain on this subject. They have been over and over again repeated. If some of those who have preceded me in this high office have entertained and avowed different opinions, I yield all confidence that their convictions were sincere. I claim only to have the same measure meted out to myself. Without going further into the argument, I will say that, in looking to the powers of this Government to collect, safely keep, and disburse the public revenue, and incidentally to regulate the commerce and exchanges, I have not been able to satisfy myself that the establishment by this Government of a bank of discount, in the ordinary acceptance of that term, was a necessary means, or one demanded by propriety, to execute those powers. What can the local discounts of the banks have to do with the collecting, safe-keeping, and disbursing of the revenue? So far as the mere discounting of paper is concerned, it is quite immaterial to this question whether the discount be obtained at a State bank or a United States Bank. They are both equally local—both beginning and both ending in a local accommodation. What influence have local discounts granted by any form of bank, in the regulating of the currency and the exchanges? Let the history of the late United States Bank aid us in answering this inquiry.

For several years after the establishment of that institution, it dealt almost exclusively in local discounts; and during that period the country was, for the most part, disappointed in the consequences anticipated from its incorporation. A uniform currency was not provided, exchanges were not regulated, and little or nothing was added to the general circulation; and in 1820 its embarrassments had become so great, that the directors petitioned Congress to repeal that article of the charter which

made its notes receivable everywhere in payment of the public dues. It had, up to that period, dealt to but a very small extent in exchanges, either foreign or domestic, and as late as 1823 its operations in that line amounted to a little more than seven millions of dollars per annum. A very rapid augmentation soon after occurred, and in 1833 its dealings in exchanges amounted to upwards of one hundred millions of dollars, including the sales of its own drafts; and all these immense transactions were effected without the employment of extraordinary means. The currency of the country became sound, and the negotiations in the exchanges were carried on at the lowest possible rates. The circulation was increased to more than \$22,000,000, and the notes of the Bank were regarded as equal to specie all over the country; thus showing almost conclusively, that it was the capacity to deal in exchanges, and not in local discounts, which furnished these facilities and advantages. It may be remarked, too, that notwithstanding the immense transactions of the Bank in the purchase of exchange, the losses sustained were merely nominal, while in the line of discounts the suspended debt was enormous, and proved most disastrous to the Bank and the country. Its power of local discount has, in fact, proved to be a fruitful source of favoritism and corruption, alike destructive to the public morals and to the general weal.

The capital invested in banks of discount in the United States, created by the States, at this time, exceeds \$850,000,000, and if the discounting of local paper could have produced any beneficial effects, the United States ought to possess the soundest currency in the world; but the reverse is lamentably the fact.

Is the measure now under consideration, of the objectionable character to which I have alluded? It is clearly so, unless by the 16th fundamental article of the 11th section it is made otherwise. That article is in the following words:

"The directors of the said corporation shall establish one competent office of discount and deposit in any State in which two thousand shares shall have been subscribed, or may be held, whenever, upon application of the Legislature of such State, Congress may, by law, require the same. And the said directors may also establish one or more competent offices of discount and deposit in any Territory or District of the United States, and in any State, with the assent of such State; and when established, the said office or offices shall be only withdrawn or removed by the said directors prior to the expiration of this charter, with the previous assent of Congress: *Provided*, in respect to any State which shall not, at the first session of the Legislature thereof held after the passage of this act, by resolution, or other usual legislative proceeding, unconditionally assent or dissent to the establishment of such office or offices within it, such assent of the said State shall be thereafter presumed: *And provided, nevertheless*, That whenever it shall become necessary and proper for carrying into execution any of the powers granted by the constitution to establish an office or offices in any of the States whatever, and the establishment thereof shall be directed by law, it shall be the duty of the said directors to establish such office or offices accordingly."

It will be seen that by this clause the directors are invested with the fullest power to establish a branch

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in any State which has yielded its assent; and, having once established such branch, it shall not afterwards be withdrawn except by order of Congress. Such assent is to be *implied*, and to have the force and sanction of an actually expressed assent, "provided in respect to any State which shall not, at the first session of the Legislature thereof held after the passage of this act, by resolution or other usual legislative proceeding, unconditionally assent or dissent to the establishment of such office or offices within it, such assent of said States shall be thereafter presumed." The assent or dissent is to be expressed *unconditionally at the first session of the Legislature, by some formal legislative act*; and, if not so expressed, its assent is to be *implied*, and the directors are thereupon invested with power at such time thereafter as they may please, to establish branches, which cannot afterwards be withdrawn, except by resolve of Congress. No matter what may be the cause which may operate with the Legislature, which either prevents it from speaking, or addresses itself to its wisdom, to induce delay, its assent is to be implied. This iron rule is to give way to no circumstances—it is unbending and inflexible. It is the language of the master to the vassal—an unconditional answer is claimed forthwith; and delay, postponement, or incapacity to answer, produces an implied assent, which is ever after irrevocable. Many of the State elections have already taken place, without any knowledge on the part of the people, that such a question was to come up. The Representatives may desire a submission of the question to their constituents preparatory to final action upon it, but this high privilege is denied; whatever may be the motives and views entertained by the Representatives of the people to induce delay, their assent is to be presumed, and is ever afterwards binding, unless their dissent shall be unconditionally expressed at their first session after the passage of this bill into a law. They may, by formal resolution, declare the question of assent or dissent to be undecided and postponed, and yet, in opposition to their express declaration to the contrary their assent is to be implied. Cases innumerable might be cited to manifest the irrationality of such an inference. Let one or two in addition suffice. The popular branch of the Legislature may express its dissent by a unanimous vote, and its resolution may be defeated by a tie vote of the Senate, and yet the assent is to be implied. Both branches of the Legislature may concur in a resolution of decided dissent, and yet the Governor may exert the *veto* power conferred on him by the State Constitution, and their legislative action be defeated, and yet the assent of the legislative authority is implied, and the directors of this contemplated institution are authorized to establish a branch or branches in such State whenever they may find it conducive to the interest of the stockholders to do so; and having once established it, they can under no circumstances withdraw it, except by act of Congress. The State may afterwards protest against such unjust inference, but its authority is gone. Its assent is implied by its failure or inability to act at its first session, and its voice can never afterwards be heard. To inferences so violent, and, as they seem to me, irrational, I cannot yield my consent. No court of justice would or could sanction them, without reversing all that is established in judicial proceeding, by introducing presumptions at vari-

ance with fact, and inferences at the expense of reason. A State in a condition of duress would be *presumed* to speak, as an individual, manacled and in prison, might be presumed to be in the enjoyment of freedom. Far better to say to the States boldly and frankly—Congress wills, and submission is demanded.

It may be said that the directors may not establish branches under such circumstances. But this is a question of power, and this bill invests them with full authority to do so. If the Legislature of New York, or Pennsylvania, or any other State, should be found to be in such condition as I have supposed, could there be any security furnished against such a step on the part of the directors? Nay, is it not fairly to be presumed that this proviso was introduced for the sole purpose of meeting the contingency referred to? Why else should it have been introduced? And I submit to the Senate, whether it can be believed that any State would be likely to sit quietly down under such a state of things? In a great measure of public interest, their patriotism may be successfully appealed to; but to infer their assent from circumstances at war with such inference, I cannot but regard as calculated to excite a feeling of fatal enmity with the peace and harmony of the country. I must, therefore, regard this clause as asserting the power to be in Congress to establish offices of discount in a State, not only without its assent, but against its dissent; and so regarding it, I cannot sanction it. On general principles, the right in Congress to prescribe terms to any State, implies a superiority of power and control, deprives the transaction of all pretence to compact between them, and terminates, as we have seen, in the total abrogation of freedom of action on the part of the States. But further, the State may express, after the most solemn form of legislation, its dissent, which may from time to time thereafter be repeated in full view of its own interest, which can never be separated from the wise and beneficent operation of this Government; and yet Congress may, by virtue of the last proviso, overrule its law, and upon grounds which, to such State, will appear to rest on a constructive necessity and propriety, and nothing more. I regard the bill as asserting for Congress the right to incorporate a United States Bank with power and right to establish offices of discount and deposit in the several States of this Union, with or without their consent; a principle to which I have always heretofore been opposed, and which can never obtain my sanction. And waiving all other considerations growing out of its other provisions, I return it to the House in which it originated, with these my objections to its approval.

JOHN TYLER.

WASHINGTON, August 16, 1841.

The moment the reading was concluded, the excitement, which was intense, was manifested in the gallery, over the chair of the President of the Senate, by a few indications of applause and dissent, when

Mr. BENTON rose and said: Mr. President, there were hisses here, at the reading of the Presidential Message. I heard them, sir, and I feel indignant that the American President shall be insulted. I have been insulted by the hisses of ruffians in this gallery, when opposing

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the old Bank of the United States. While I am here, the President shall never be insulted by hisses in this hall. I ask for no such thing as clearing the galleries, but let those who have made the disturbance be pointed out to the Sergeant-at-Arms, and be turned out from the galleries. Those who have dared to insult our form of Government—for in insulting this Message they have insulted the President and our form of Government—those ruffians who would not have dared to insult the King, surrounded by his guard, have dared to insult the American President in the American Senate; and I move that the Sergeant-at-Arms be directed to take them into custody.

Mr. RIVES regretted that any disturbance had taken place. He doubted not but the Senator thought he heard it, but must say, in all sincerity, he did not hear the hiss. At all events, it was so slight and of short duration, that the majority of the Senate scarcely heard it. He hoped that no proceedings of this kind would take place, and that this manifestation of disturbance, when so deep an interest was felt, and which was so immediately quieted, would be passed over. The general opinion of the Senators around him was, that the honorable Senator was mistaken.

Mr. BENTON. I am not mistaken—I am not.

Mr. RIVES. He hoped they would pass it by, as one of those little ebullitions of excitement which were unavoidable, and which was not offered to insult this body, or the President of the United States.

Mr. BENTON heard the hisses, and heard them distinctly; if a doubt was raised on it, he would bring the matter to a question of fact, "true or not true." No man should doubt whether he heard them or not. He came here this day prepared to see the American President insulted by bank bullies; and he told his friends that it had been done, and that they never could proceed in action on a Bank, when the American Senate would not be insulted, either by hissing on one side, or clapping on the other. He told them, if it was done, as sure as the American President should be insulted this day, by bank ruffians, just so sure he should rise in his place and move to have those disturbers of the honor and dignity of the Senate brought to the bar of the Senate. He would not move to clear the galleries, for a thousand orderly people were there, who were not to be turned out for the disturbance of a few ruffians. He would tell the Senator from Virginia that he (the Senator) should hang no doubt on his declaration; and if it were doubted, he would appeal to Senators near him.

[Mr. WALKER. I will answer, most directly, that I heard it, and I believe the same bully is going on now.] A National Bank (continued Mr. B.) is not, as yet, our master, and shall not be; and he would undertake to vindicate the honor of the Senate, from the outrages perpetrated on it by the myrmidons of a National Bank. Were the slaves of a National Bank to

have the privilege of insulting the Senate, just as often as a vote passed contrary to their wishes? It was an audacity that must be checked—and checked before they went with arms in their hands to fire on those who gave votes contrary to their wishes, or assassinate them on their way home. He put the whole at defiance—the entire Bank, and its myrmidons.

Mr. PRESTON said if any thing had occurred in the gallery out of order, it should be strictly inquired into and punished. He himself did not hear the manifestations of disapprobation alluded to by the Senators on the other side; but it was sufficient for him that the Senators heard it, or supposed that they heard it. [Mr. BENTON. We did not *suppose* we heard it; we knew it.] In this case, (continued Mr. P.) a formal investigation should take place. It was a contempt of the Senate, and, as a member of the Senate, he desired to see an investigation—to see the charges fixed on some person, and if properly sustained, to see punishment awarded. Manifestations of praise or censure were eminently wrong, and eminently dangerous; and it was due to every member of the Senate that they should preserve the dignity of the body by checking it. He hoped, therefore, if a formal motion was made, it would be discovered who had caused the disturbance, and that they would be properly punished.

Mr. BUCHANAN said this was a very solemn and momentous occasion, which would form a crisis, perhaps, in the politics of the country; and he should hope, as he believed that every American citizen present in the galleries would feel the importance of this crisis, and feel deeply sensible of the high character to which every man, blessed with birth in this free country, should aim. He heard, distinctly heard, the hiss referred to by the Senator from Missouri, (Mr. BENTON,) but he was bound to say it was not loud and prolonged, but was arrested in a moment, he believed partly from the Senator rising, and partly from the good sense and good feeling of the people in the galleries. Under these circumstances, as it only commenced and did not proceed, if he had the power of persuasion, he would ask the Senator from Missouri to withdraw his motion.

[Mr. BENTON. I never will, so help me God!]

He thought it better, far better, that they proceed to the important business before them, under the consideration that they should not be disturbed hereafter; and if they were, he would go as far as the Senator from Missouri in immediately arresting it. He would much rather go on with the business in hand.

Mr. LINN reminded the Senate, that when the Bank bill had passed the Senate, there was a loud manifestation of approbation in the gallery, of which no notice was taken. He believed on the present occasion there was approbation as well as hisses; but both were instantly suppressed. He had distinctly heard



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both. No doubt it was the promptness with which his colleague had got up to check the disturbance, which had prevented it from going further. He had no doubt some law ought to be passed making it punishable to commit any outrage of this kind on either House of Congress.

Mr. MERRICK thought with the Senator from Pennsylvania, that this was a very solemn occasion. There had been tokens of assent and dissent. The President of the Senate at the moment rapped very hard till order was restored. The disorder was but momentary. He trusted some allowance would be made for the excitement so natural on the occasion.

Mr. KING suggested the difficulty that might arise out of pursuing the matter further. He had witnessed something of the kind once before, and when the offender was brought to the bar, great embarrassment was created by not knowing how to get rid of him. He thought it would be better to pass over the matter, and proceed to the consideration of the Message, or to the appointment of a time for its consideration.

The CHAIR explained that having heard some noise, without considering whether it was approbation or disapprobation, he had called the Senate to order; but could not say that he had or had not heard hisses.

Mr. RIVES explained that he did not mean to say the Senator from Missouri did not hear the hisses, but that he himself did not hear them, and he believed many gentlemen around him did not hear any. But as the Senator from Missouri had avowedly come prepared to hear them, no doubt he did, more sensitively than others. He would ask the Senator to be satisfied with the crush which the mother of monsters had got, and not bear too hard on the solitary bank ruffian, to use his own expression, who had disapproved of the monster's fate. He hoped the Senator would withdraw the motion.

Mr. LINN observed that the Senator from Virginia, by his own remarks, doubting that there were any hisses, had forced the Senator from Missouri to persist in having the proof. However, he now understood that point was settled; and the object being accomplished, he hoped his colleague would withdraw his motion.

Mr. PRESTON again expressed his concurrence in the propriety of the motion, and hoped effectual steps would be taken to prevent the recurrence of such a scene.

Mr. ALLEN made some appropriate remarks, and concluded by stating that he understood the offender was in custody, and expressed his sorrow for having done what he was not at the time aware was an offence; as, therefore, all the ends had been accomplished which his friend had in view when he refused to withdraw his motion, he hoped he would now withdraw it.

Mr. WALKER said, when the Senator from

Missouri (Mr. BENTON) pledged himself not to withdraw his motion to arrest the individual who had insulted the Senate and the country by hissing the Message of the President of the United States, that pledge arose from the doubt expressed by the Senator from Virginia, (Mr. RIVES,) whether the hissing had taken place. That doubt was now solved. When the Senator from Missouri appealed to his friends as to the truth of the fact stated by him, he (Mr. WALKER) had risen, and pointed to that portion of the gallery from which the hissing proceeded. Our Assistant Sergeant-at-Arms had proceeded to that quarter of the gallery designated by him, (Mr. W.), and this officer had now in his possession one of the offenders, who acknowledged his indecent conduct, and who was prepared to point out many of those who had joined him. The object of the Senator was, therefore, now accomplished; the fact of the indecorum was established, and the offender, as moved by the Senator from Missouri, was now in custody. This, Mr. W. hoped, would be sufficient punishment, especially as Mr. W. understood the offender expressed his penitence for the act, as one of sudden impulse. As, then, the formal trial of this individual would occupy much time, Mr. W. hoped the matter would be dropped here; and let us proceed, as required by the constitution, to consider the Message of the President returning the Bank bill, with his objections. This Message, Mr. W. said, he regarded as the most important which ever emanated from an American President, and under circumstances the most solemn and imposing. The President, in perfect and glorious consistency with a long life of usefulness and honor, has placed his veto upon the charter of a National Bank, and, Mr. W. said, his heart was too full of gratitude to the Giver of all good for this salvation of the country, and rescue of the constitution, to engage in the business of inflicting punishment upon an individual, said to be respectable, and who had in part atoned for his offence by the expression of his repentance. Let him go, then, and sin no more, and let us proceed to the consideration of that Veto Message, which he, Mr. W., had confidently predicted at the very commencement of this session, and recorded that opinion at its date in the journals of the day. Many then doubted the correctness of this prediction, but he, Mr. W., whilst he stated at the time that he was not authorized to speak for the President of the United States, based his conviction upon his knowledge of Mr. TYLER as a man and a Senator, and upon his long and consistent opposition to the creation of any such Bank as was now proposed to be established.

Mr. BENTON said he had been informed by one of the officers of the Senate, (Mr. Beale,) that one of the persons who made the disorder in the gallery had been seized by him, and was now in custody, and in the room of the Sergeant-at-Arms. This the officers had very properly done of their own motion, and with-

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out waiting for the Senate's order. They had done their duty, and his motion had thus been executed. His motion was to seize the disorderly, and bring them to the bar of the Senate. One had been seized; he was in custody in an adjoining room; and if he was still acting contemptuously to the Senate, he should move to bring him to the bar; but that was not the case. He was penitent and contrite. He expressed his sorrow for what he had done, and said he had acted without ill design, and from no feelings of contempt to the President or the Senate. Under these circumstances, all was accomplished that his motion intended. The man is in custody and repentant. This is sufficient. Let him be discharged, and there is an end of the affair. His motion now was that the President direct him to be discharged. Mr. B. said he had acted from reflection, and not from impulse, in this whole affair. He expected the President to be insulted: it was incident to the legislation on National Bank charters. When they were on the carpet, the Senate, the President, and the American people must all be insulted if the Bank myrmidons are disappointed. He told his family before he left home, that the Senate and the President would be insulted by hisses in the gallery this day, and that he would not let it pass—that it would be an insult, not merely to the President and Senate, but to the whole American people, and to their form of Government—and that it should not pass. He came here determined to nip this business in the bud—and to prevent an insult to the President in this chamber from being made a precedent for it elsewhere. We all know the insolence of the National Bank party—we know the insolence of their myrmidons—we know that President Tyler, who has signed this veto Message, is subject to their insults—beginning here, and following him wherever he goes. He (Mr. B.) was determined to protect him here, and, in doing so, to set the example which would be elsewhere followed. He repeated: an insult to the President for an official act, was not an insult to the man, but to the whole American people, and to their form of Government. Would these Bank myrmidons insult a king, surrounded by his guards? Not at all. Then they should not insult an American President with impunity wherever he was present. In the Senate or out of it, he would defend the President from personal outrage and indignity. As to the numerous and respectable auditory now present, his motion did not reach them. He had not moved to clear the galleries; for that would send out the respectable audience, who had conducted themselves with propriety. The rule of order was "*to clear the galleries*;" but he had purposely avoided that motion, because the disorder came from a few, and the respectable part of the audience ought not to suffer for an offence in which they had no share. Mr. B. said the man being in custody, his motion was executed and su-

perseded; its object was accomplished, and, he being contrite, he would move to discharge him.

The President of the Senate ordered him to be discharged.

#### *Consideration of the Veto Message.*

Mr. CLAY, of Kentucky, said that, as a Message had been received from the President of the United States, returning to the Senate, in which it had originated, a bill for the charter of a Fiscal Bank; which bill, having been passed by the other House, had received the concurrence of both branches of the Legislature, and been presented to him for his signature, he presumed it was not the intention of the Senate to go into the consideration of that communication at this moment. It would scarcely be treating it with the gravity and respect due to a co-ordinate branch of the Government, to enter upon such discussion before the paper had been printed, and time had been given for that deliberate consideration of its contents which obviously ought to precede such a debate. The Senate had been sufficiently familiar with communications of this kind to know what course it was proper to pursue, even had the constitution left it without any directions. But that instrument had prescribed the course to be pursued. It directed that, when a bill should be returned from the President, with his objections, the objections should first be recorded upon the journal, and then the body should proceed to reconsider the bill; that, if it should receive the assent of two-thirds of the members, it should be sent to the other House of Congress, and if it obtained a like majority there, it should become a law, the President's objections notwithstanding; but if not, the bill was rejected, and there was an end to the measure. He had risen to move that the Senate would, to-morrow, at twelve o'clock, proceed to reconsider the President's objections to the bill; and that, in the mean time, the Executive communication just received be laid upon the table and printed.

Mr. RIVES suggested to the Senator from Kentucky, that eleven o'clock would be a preferable hour to which to postpone the consideration of the bill; as their morning hour expired at that time, and it would be better to proceed immediately to the consideration of the subject, than to spend an hour on the land bill, and then be broken off to take up this bill. Eleven o'clock was the hour appointed in 1832 for taking up Gen. Jackson's veto Message.

Mr. CLAY, of Kentucky, preferred 12 o'clock; whatever business of the orders of the day would be on hand, could be passed over informally when the hour came.

Six thousand copies of the Message were then ordered to be printed.

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## HOUSE OF REPRESENTATIVES.

TUESDAY, August 17.

*Bankrupt Law.*

On motion of Mr. BARNARD, the House again resolved itself into Committee of the Whole on the state of the Union, (Mr. TILLINGHAST, of Rhode Island, in the chair,) and resumed the consideration of the bill from the Senate to establish a uniform system of bankruptcy throughout the United States.

The pending question being on the motion of Mr. GORDON, of New York, to strike out the enacting clause of the bill,

Mr. BARNARD (chairman of the Judiciary Committee) addressed the committee in reply to some of the arguments which had been urged in opposition to the bill, concluding with a renewed and most urgent appeal to the House no longer to withhold from the country this great measure of relief, emancipation, and justice.

Mr. SALTSTALL addressed the committee at length in support of the bill, and in reply to the various objections which had been urged against it.

Mr. SPRIGG, of Kentucky, then took the floor, and in the brief space allotted him, opposed the bill with much earnestness. He was called upon, he said, to lay the foundation stone of a system which he knew would not benefit, in any manner, the people he represented. He was called upon to suspend the operation of the laws of his own State, and, indeed, to nullify them, for the benefit of strangers to it in interest and feeling. Kentucky was the first State in the Union, and, indeed, the first community in the world, that abolished imprisonment for debt; and yet, he proclaimed it with pride, that there was no country in the world where the obligation of contracts was so strictly regarded, or where their performance was so easily enforced. His Yankee friends who could live on the ocean—live by getting fish, and live in every sort of way, pretended to tell him that their object was to cast the mantle of charity and humanity over those who were pressed down by misfortune; but he knew their course full well. He wished to God he had time to trace the whole bankrupt system from the time of Henry IV. down to that of Henry VIII., for he had read every statute that had been passed on that subject, and he knew that bankrupt laws were designed, not to give relief to the debtor, but to give a more efficient remedy to the creditor. Did not his old friend, JOHN QUINCY ADAMS, know this? We twice (said Mr. S.) had a bankrupt system in this country—first, when we were colonies dependent on Great Britain, and afterwards when a bankrupt bill was enacted in the time of the first Adams, who was as honest a man as ever lived, and did not put his veto upon it when Congress passed it. This bill, he said, was not wanting in his State, for he repeated that there was not a country in the world where there was a better system for the enforcement of obligations

than in Kentucky, and he could not consent to let his Yankee friends make laws for her. He would not consent for New York or Massachusetts, which still tolerated imprisonment for debt, to legislate for Kentucky. He would tell the people of the West, that the object of this bill was to bring them under the surveillance of New York and New England. Pass this bill, (said Mr. S.,) and you will soon have the question raised whether this Government can release men from the obligation of contracts—a principle that he never could give his consent to. By this bill, a contract made in Kentucky in good faith, might be annulled, if the man who made it happened to owe a debt in New York and Boston. And all this (said Mr. S.) comes from the land of steady habits. He thought the Yankees were the last men in the world who would ask the Government for relief. He thought they were prudent, industrious, and thrifty, and that they managed their affairs too well to be in want of the relief afforded by bankrupt laws. Mr. S. here referred to the relief laws passed in Kentucky in times of unparalleled distress—laws, he said, not to violate contracts, or to relieve the debtor from his debts, but merely to suspend compulsory proceedings for two years; and yet the merchants of the Atlantic States endeavored, by the aid of the Federal courts, to set aside these laws, and subject the citizens of Kentucky to imprisonment.

The CHAIR here interrupted Mr. S., and informed him that the hour had arrived when debate must cease.

The hour of twelve having arrived, the committee, in pursuance of the order of the House of this morning, proceeded, without further debate, to vote on the amendments pending, or that might be offered.

The question was taken first on the motion of Mr. GORDON to strike out the enacting clause of the bill, and by ayes 79, noes 90, it was rejected.

## IN SENATE.

WEDNESDAY, August 18.

*Fiscal Bank—Veto Message.*

The hour of twelve having arrived, the President proclaimed the order of the day, which was the consideration of the objections of the President of the United States to the bill chartering a Fiscal Bank.

[The galleries and lobbies were crowded, in expectation of the debate which had been anticipated.]

Mr. BERRIEN rose and said, that under a sense of duty, he was induced to move that the consideration of the Executive Message accompanying the return to the Senate of the bill to establish a Fiscal Bank, be further postponed until to-morrow, 12 o'clock.

Mr. CALHOUN said that, as this was a very extraordinary motion, the votes of Senators

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*Bankrupt Bill.*

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upon it ought to be recorded, he would, therefore, demand the yeas and nays.

They were ordered accordingly, and stood as follows:

**YEAS.**—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Henderson, Huntington, Ker, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Prentiss, Preston, Rives, Simmons, Smith of Indiana, Southard, Tallmadge, White, and Woodbridge—29.

**NAYS.**—Messrs. Allen, Benton, Buchanan, Calhoun, Clay of Alabama, Cuthbert, Fulton, King, Linn, McRoberts, Mouton, Nicholson, Pierce, Sevier, Sturgeon, Tappan, Walker, Williams, Woodbury, Wright, and Young—21.

So the consideration of the Message was postponed till to-morrow, at twelve o'clock.

#### *Bankrupt Bill.*

Mr. WALKER then moved to proceed to the consideration of the amendments of the House to the Bankrupt bill. Which was agreed to.

The amendments were then read, being merely to fix as the time for the bill to take effect, the 1st of *February* next, instead of 1st of November, and another merely verbal.

Mr. BERRIEN briefly explained the propriety of the amendment.

Mr. BUCHANAN said, from the tone of the letters he had received from politicians differing with him, he should advise his friend from Mississippi (Mr. WALKER) not to be quite so soft as, in his eagerness to pass this bill, to agree to this amendment, postponing the time for it to take effect to February, as it would be repealed before its operation commenced; although it was now made a price of the passage of the distribution bill. He felt not a particle of doubt but there would be a violent attempt to repeal it next session.

[Mr. BENTON. They will attempt to repeal it in ten days after the commencement of next session.]

Mr. BUCHANAN. As a party man, he would not want better capital than this bill to work on. His great objection to the bill was, that it would encourage the wild spirit of speculation to which they were exposed, and which, in this growing country, ought rather to be restrained. It would have the effect of driving speculation to the highest madness, by informing every man, in case he failed to win the golden prize, he might blot out his obligations and commence again. He was opposed to the amendment.

Mr. WALKER said when his friend from Pennsylvania spoke of his being "soft," he did not know whether he referred to his head or heart. But he was not soft enough to run the chance of defeating this bill by sending it back to the House. The Senator's arguments were rather "softer" than usual, for if it were to be repealed, in case the time before its going into operation were extended, it would be an additional reason why the Senator should support the amendment.

Mr. MOREHEAD asked, in case they postponed the operation of the bill, to give an opportunity to carry the measure to the people, and give the Congress a chance to repeal it, if that was "goaded on the Senator to madness?" If it were repealed, it would be because the people willed it, and, if so, he would venture to say that the Whig party would concur in it. He was glad that the amendment was adopted. If the people of the United States did not want a Bankrupt bill, they would, by this amendment, have an opportunity to repeal it; and they would go before the people with it, and they might come here on the 1st Monday in December and have an issue on it, if they wished.

Mr. BUCHANAN said the Senator from Kentucky (Mr. MOREHEAD) had misunderstood him. He had remarked that the operation of a bankrupt law generally, would have a tendency to goad on the spirit of speculation to madness. He had stated that those who would "log-roll," and vote for the distribution bill to get the bankrupt bill, might be deceived. The distribution bill went into operation, and the bankrupt bill was to be postponed to February and before that time might be repealed.

Mr. CALHOUN did not concur with his friend from Pennsylvania, that there would be any effort to repeal this bill. It would be exceedingly popular at its first "go off;" and if this bill passed, he hoped that none of his friends would attempt to repeal it. It would, if permitted to work, produce its legitimate effects, and was enough to destroy any Administration. He saw that this was a doomed Administration. It would not only destroy them, but blow them "sky high."

Mr. PRESTON said his feelings had been very much against the bill. He had voted against the engrossment, but this amendment was good in itself, and he should support it.

Mr. ALLEN said he did not rise for the purpose of protracting the discussion, but to make a motion. The effect of the amendment to this bill, adopted by the House, was to postpone its operation until the 1st of February next. Now, one of the reasons given by the Senator from Mississippi (Mr. WALKER) for moving to lay the Land bill on the table, and calling up this bill at this particular time, was that the unfortunate persons who expected to find relief in this bill, might have that relief instantly, and not sleep another night without it. The bill was taken up with the view of imparting to these unfortunate beings the certain knowledge that they were to be relieved by this bill. After it was taken up, it was found that the object of the amendment was to postpone the relief for a longer time. And the reason given for the amendment made by the House, was to allow a subsequent Congress the opportunity to amend it, or altogether repeal the bill. The reason, therefore, for the delay in the operation of this bill,

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going along with the bill itself, so far from carrying a certainty of relief to the sufferers, would carry a mere tantalizing *hope*, that on the happening of a contingency the relief is to be administered. The object of the amendment itself, as stated, viz: to give a future Congress an opportunity to review this act, was a declaration to these bankrupts that they were not to be relieved till a future Congress should have reviewed the act. He was not prepared to say that this mode of legislation would not, as a general rule, be well, if universally adopted; on the contrary, it would be far better for the country, if all the laws which would deeply and permanently affect the country, were required by the constitution to be passed by two Congresses before they went into operation. He believed it would be a wholesome provision with respect to all laws, except those which might be necessary for the defence of the country; and as the Senator from Kentucky had ascertained this principle to be a Democratic principle—to allow the people time to re-examine our acts, and communicate to a subsequent Congress their decision—he thought he would do justice to himself if he would extend this principle to the Land bill, and vote with him (Mr. ALLEN) to postpone its operation to the first of February next. This would seem to be no more than right, because it was said here that one of these bills was made dependent on the other. It was by *log-rolling* that these bills were to be passed; and if these contracting parties intended to deal in good faith, they should make both ends of the contract take effect at the same time, and depend on the same contingency, by giving to this Land bill as to the Bankrupt bill, a suspension of its operation till the first of February, so that there should be no opportunity for one party to delude the other; he meant the parties to these two contracts.

It was the object of this bankrupt bill not to relieve immediately the present sufferers, but simply to go before the country with it, and let it be decided on; and as this was the case, he proposed to lay it before them in the form of a "bill," and not a "law." He therefore moved the postponement of this (the bankrupt) bill till the first of February next.

After some conversation as to its being in order at this stage of proceedings, to lay a bill on the table, the question was taken and the motion rejected, as follows:

**YEAS.**—Messrs. Allen, Archer, Benton, Buchanan, Calhoun, Clay of Alabama, Cuthbert, Fulton, Graham, King, Linn, McRoberts, Nicholson, Pierce, Prentiss, Preston, Rives, Sevier, Sturgeon, Tappan, Woodbury, Wright, and Young—23.

**NAYS.**—Messrs. Barrow, Bates, Bayard, Berrien, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Henderson, Huntington, Ker, Mangum, Merrick, Miller, Morehead, Mouton, Phelps, Porter, Simmons, Smith of Indiana, Southard, Tallmadge, Walker, White, and Woodbridge—26.

The question was then taken, and the amendments of the House of Representatives were concurred in without a division.

On motion by Mr. MANGUM,  
The Senate then adjourned at 3 o'clock.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, August 18.

#### Bankrupt Bill.

Mr. GAMBLE rose, and moved a reconsideration of the vote of yesterday, by which the bill from the Senate to establish a uniform system of bankruptcy throughout the United States had been laid on the table.

Mr. G. proceeded to remark that he was one among the number of those who had no scruples—

The SPEAKER. The question is not debatable.

Mr. GAMBLE. I move the previous question on the motion to reconsider.

The SPEAKER said there was no necessity so to do, as the motion to reconsider a vote laying a subject on the table (which latter motion admitted of no discussion) was not debatable.

And the question recurring on the motion of Mr. GAMBLE to reconsider the vote by which the bankrupt bill and amendments had been laid on the table—

Mr. PROFFIT asked the yeas and nays, which were ordered; and, being taken, were as follows: yeas 108, nays 98.

So the vote was reconsidered.

Mr. SOLLERS rose and inquired of the Speaker whether, the vote having been reconsidered, the question recurred on the motion to lay the bill and amendments on the table?

The SPEAKER. Yes; unless the gentleman who made that motion withdraws it.

So the motion was not withdrawn.

And the question recurring on that motion, (to wit, to lay the bill and amendments on the table)—

Mr. BARNARD asked the yeas and nays, which were ordered: and being taken, were as follows: yeas 99, nays 112.

So the bill and amendments were not laid on the table.

[Here Mr. KING introduced the honorable JOHN T. STUART, member elect from the State of Illinois, who was qualified, and took his seat.]

And the question recurring on concurring in the amendment (to the 17th section) reported from the Committee of the Whole on the state of the Union, and which amendment postponed the time at which the bill was to go into operation until the first day of February next, (the original day fixed in the bill being the first day of November current,)

The question was taken, and the amendment was concurred in, and ordered to be engrossed.

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And the bill (as amended) was ordered to a third reading at this time.

And the bill having been read a third time by its title, and the question being on the final passage thereof,

Mr. BRIGGS moved the previous question.

Mr. WISE moved a call of the House, remarking that he made the motion that it might be seen who dodged this question.

And the main question (being on the passage of the bill) was ordered to be taken.

Mr. CLIFFORD asked the yeas and nays, which were ordered.

And the main question, "Shall this bill pass?" was then taken, and decided in the affirmative, as follows:

YEAS.—Messrs. Adams, Allen, S. J. Andrews, Arnold, Aycrigg, Babcock, Baker, Barnard, Black, Blair, Boardman, Borden, Briggs, Brockway, Bronson, M. Brown, Burnell, Calhoun, Thos. J. Campbell, Caruthers, Childs, Chittenden, J. C. Clark, S. N. Clarke, Cowen, Cranston, Cravens, Cushing, G. Davis, William C. Dawson, John B. Dawson, Deberry, John Edwards, Everett, Fessenden, Fillmore, A. L. Foster, Gamble, Gates, P. G. Goode, Greig, Habersham, Hall, Halsted, W. S. Hastings, Henry, Howard, Hudson, Hunt, Jas. Irvin, William W. Irwin, James, W. C. Johnson, I. D. Jones, J. P. Kennedy, King, Lane, Lawrence, Linn, S. Mason, Mathiot, Maxwell, Maynard, Meriwether, Moore, Morgan, Morris, Morrow, Nisbet, Osborne, Pearce, Pendleton, Powell, Benjamin Randall, Alexander Randall, Randolph, Rayner, Ridgway, Rodney, Roosevelt, Russell, Saltonstall, Sergeant, Simonton, Slade, Smith, Sollers, Stanly, Stokeley, Stratton, John T. Stuart, Taliaferro, Richard W. Thompson, Tillinghast, Toland, Tomlinson, Van Rensselaer, Wallace, Warren, E. D. White, J. L. White, T. W. Williams, Lewis Williams, Christopher H. Williams, J. L. Williams, Winthrop, Wood, Yorke, A. Young, and John Young—110.

NAYS.—Messrs. L. W. Andrews, Arrington, Atherton, Banks, Beeson, Bidlack, Birdseye, Botts, Bowne, Boyd, A. V. Brown, C. Brown, J. Brown, Burke, William Butler, William O. Butler, Green W. Caldwell, Patrick C. Caldwell, John Campbell, W. B. Campbell, Cary, Chapman, Clifford, Clinton, Coles, Cross, Daniel, Richard D. Davis, Dean, Doan, Doig, Eastman, John C. Edwards, Egbert, Ferris, John G. Floyd, Charles A. Floyd, Fournance, T. F. Foster, Gentry, Gerry, Gilmer, Goggin, W. O. Goode, Gordon, Graham, Gustine, Harris, John Hastings, Hays, Holmes, Hopkins, Houck, Houston, Hubard, Hunter, Ingersoll, Jack, Cave Johnson, John W. Jones, Keim, A. Kennedy, Lewis, Littlefield, Abraham McClellan, Robert McClellan, McKay, Mallory, Marchand, Thomas F. Marshall, Mathews, Mattocks, Medill, Miller, Newhard, Parmenter, Payne, Pickens, Plumer, Pope, Proffit, Ramsey, Reding, Rencher, Rhett, Riggs, Rogers, Saunders, Shaw, Shepperd, Shields, Snyder, Sprigg, Steenrod, Sweney, J. B. Thompson, Triplett, Turney, Underwood, Van Buren, Ward, Watterson, Weller, Westbrook, J. W. Williams, and Wise—106.

So the bill was passed.

IN SENATE.

THURSDAY, August 19.

*Disturbances in the Galleries and at the President's House.*

The following resolution, submitted yesterday by Mr. WOODBURY, was taken up:

*Resolved*, That the Committee on the District of Columbia be instructed to inquire into the extent and character of the disturbances in the galleries of the Senate on two occasions at the present extra session—one on the final passage of the bill for a fiscal Bank of the United States, and one on the reading of the veto of said bill; and that they report whether any, and what, further legislation may be necessary to prevent or punish similar interruptions of the public business hereafter.

Also, that the said committee inquire and report in respect to the disturbances at or near the President's House on the night ensuing the said veto; the description and object thereof; the numbers and names of the persons concerned in them, so far as can be ascertained; the punishment, if any, to which they have been subjected by the civil authorities for a breach of the public peace, or for riotous and tumultuous behavior on that occasion; and to recommend any additional measures, of a legislative character or otherwise, which may, in their opinion, be proper for the protection of the different branches of the General Government from violent molestation, disturbance, and interruption, while engaged in the discharge of their public duties in the city of Washington. And said committee is hereby authorized to send for persons and papers.

Mr. WOODBURY observed that, as this was a resolution looking merely to inquiry, he should not detain the Senate by any remarks, unless the passage of the resolution was opposed.

Mr. MERRIOT objected to the resolution. He could see no propriety in imposing this duty on the Committee on the District. He denied that the Senate had a right to interfere with the people of the District, whether they choose to bury the Bank bill or to rejoice at the veto.

Mr. WOODBURY said the resolution proposed that the inquiry be made by the Committee on the District of Columbia, for very manifest reasons. The evil complained of was a violent interruption of the quiet of some of the branches of the Government, in the discharge of their public duties in this District, set apart and consecrated to that object.

This committee has the general supervision over all the concerns of this District; and the most material, the most vital of them, to the whole country, as well as to the permanent inhabitants of the *ten miles square*, reserved for this great object, is the tranquil and undisturbed performance of it.

Otherwise it will be seen that the continuance of our sessions in this city becomes endangered, and the representatives of the people and States, if unable to legislate without violent molestation, being but three or four hundred among thousands, must return to their

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constituents, or protect themselves by physical force. What would be the injury thus inflicted on private interests here, and the reproach cast on our free institutions? Nor is the passage of this resolution rendered unnecessary, as the Senator from Maryland supposes, because the disturbances in this chamber were at the time passed over without punishment.

That was done because they were not very general, and were in one case apologized for on the spot. But even then some gentlemen acquiesced in overlooking them, only under a determination to pass new laws, if found to be proper, in order more fully either to deter or to punish similar outbreaks hereafter.

So in respect to the violent and disgraceful outrages which since happened—not over various and remote portions of the city, as intimated, but at the Executive residence—before his very door and windows. Nobody has passed it over, and nobody in favor of law, order, or decency, ought to: universal reprobation and scorn are due to it. I understand, however, that the Senator objects more to the inquiry into facts than to the inquiry into the propriety of further legislation.

But it would be very difficult to judge whether additional legislation was necessary or not, till it was first ascertained, on evidence, whether the facts were of a description and character which could not be prosecuted, or, if prosecuted, could not be punished sufficiently under the existing laws. For if they could be, then there had been default and neglect by the civil authorities, in not nipping in the bud, and preventing, the last disturbance of the Executive Department at the Executive Mansion.

Then there would be still more culpability in them, if they did not proceed and make a public example of the real offenders. He trusted, from information before him, and assurances received from several highly respectable inhabitants of the city, that they felt much indignation at these riotous outbreaks, and intended to visit on the culprits who caused them the whole severity authorized by existing laws.

It will not do to overlook, again and again, such reproachful occurrences. This course would be an encouragement, and make even ourselves indirect participators in the offences.

It was due, also, to the individual liberty and private rights of the people at large, that this inquiry should be had; and any legislation could then be adopted which might be proper to protect any supposed offender from unusual or extraordinary trial and punishment incident to the summary, harsh proceedings common on these occasions.

This was, and should continue to be, a land of laws—laws not vague, but clear, well known, and mild as was consistent with the due security of property, character, and life.

We had, already, after the trial of Judge Peck, passed new acts of Congress in relation

to the tranquillity of judicial proceedings. We had defined what should constitute contempt, and had limited their punishment. A similar course seemed to be required in relation to the protection of legislative and executive proceedings from violation and interruption, to that which had been adopted in respect to the judiciary. Whenever obstructed, the former annoyed not merely the public agents, but obstructed the execution of the recorded will of the twenty-six States, and the seventeen millions of the population.

But our indignation at any supposed disturbances of the public quiet, of public power, and public rights, in and through the public agents, should not at any time lead us suddenly into the exercise of too great severity or too unlimited a discretion. Hence, for the safety of the citizen, when arraigned, as well as for the preservation of the purity and sacredness of the great representative principle in transacting the most important public business through delegated agents, I trust this resolution will pass.

Mr. MERRICK reiterated his objections to the resolution. They might request the committee to report such amendments to their rules, if it was deemed necessary, as to protect the Senate in the exercise of its legislative functions; but he objected to sending the committee beyond the walls of the capitol. As to the disturbances at the Executive mansion, he had been informed that they originated in a number of persons assembling with music, for the purpose of complimenting the President with a serenade for vetoing the Bank bill. While proceeding there, a number of other persons, of contrary sentiments, joined the procession, and their expressions of disapprobation overpowered those of approbation given by the friends of the veto.

Mr. KING spoke in terms of strong reprobation of the insult offered to the Executive for the conscientious performance of official duty. If the authorities of this city have not the power to repress these tumultuary assemblages, it should be given to them when the charter of the city came up for revision, which, he hoped, would not be postponed beyond the next session. If the authorities already had the power over this subject, he was sorry to say there did not appear to have been a proper exercise of it. Had the Mayor power to put down riots, and arrest the rioters, when they were before his face? Has he arrested them? If not, then the blame rests upon his head.

Mr. PRESTON spoke at considerable length, and attributed the disorderly proceedings to the inefficiency of the police of the city.

Mr. KING concurred with the Senator from South Carolina, that the city greatly needed a more efficient police than its impoverished condition would authorize it to maintain, and he was disposed to assist them in this manner. It would be better, however, in his opinion, that this whole subject should be postponed

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*Goochland County (Virginia) Petition.*

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until the next session, and, with the consent of his honorable friend from New Hampshire, he would move to postpone his resolution also to the next session.

Mr. WOODBURY said this motion to postpone to the next session was founded on the admitted propriety of inquiry and legislation. So far from giving the go-by to the measure, it was decided that further time might be had for consideration before action, and less haste and more coolness prevailed at that time than could now be expected. As action, efficient action, of some kind, was then intended to be had, he should not resist the delay desired, at a time so near, he hoped, to the close of the present session.

#### *Bankrupt Act.*

The Bankrupt bill was returned to the Senate with the President's signature.

#### *Fiscal Bank Veto.*

The hour of twelve having arrived, the CHAIR announced the special order of the day—the bill to incorporate the subscribers to the Fiscal Bank of the United States, with the Message of the President refusing his assent thereto.

Mr. OLAY, of Kentucky, spoke for about an hour and a half, condemning the course of the President, in refusing his sanction to the bill.

Mr. RIVES replied to Mr. OLAY, and vindicated the President's course.

The debate was further participated in by Messrs. ARCHER and BERRIEN.

The question was then (at half-past 5 o'clock) taken anew upon the passage of the Bank bill, and decided by yeas and nays, as follows:

YEAS.—Messrs. Barrow, Bates, Bayard, Berrien, Choate, Clay of Kentucky, Dixon, Evans, Graham, Henderson, Huntington, Ker, Mangum, Merrick, Miller, Morehead, Porter, Prentiss, Preston, Simmons, Smith of Indiana, Southard, Tallmadge, White, and Woodbridge—25.

NAYS.—Messrs. Allen, Archer, Benton, Buchanan, Calhoun, Clay of Alabama, Clayton, Cuthbert, Fulton, King, Linn, McRoberts, Mouton, Nicholson, Pierce, Rives, Sevier, Sturgeon, Tappan, Walker, Williams, Woodbury, Wright, and Young—24.

There not being the constitutional majority of two-thirds in favor of the bill, which would be requisite to entitle it to be sent to the House of Representatives for the like concurrence there, the bill remains finally rejected.

The Senate then, after an exhausting session of seven hours, adjourned.

FRIDAY, August 20.

#### *Goochland County (Virginia) Petition.*

Mr. CALHOUN said that he rose to present, by request, the preamble and resolutions of citizens of the county of Goochland, on the important questions which have been agitated

in the Senate during the present session. The resolutions condemn, in strong and just terms, Bank, Distribution, Tariff, and the whole of that batch of measures. Among the resolutions, there is one paying a high, and, in his opinion, deserved compliment to the patriotic conduct of Mr. WISE, Mr. HUNTER, Mr. MALLOY, and Mr. GILMER, during the present session, and another, which warmly approves, in advance, the veto on the Bank bill. On the last of these resolutions he hoped he would be permitted to indulge in a few remarks. He concurred heartily with the meeting in the approval of the veto. It would do much good. It has destroyed the Bank bill, and, he trusted, would prevent the creation of any Bank hereafter, which would, indeed, be a great deliverance. He went farther. He not only approved of the veto, but concurred with the President, that in vetoing this bill, with his opinions of the unconstitutionality and inexpediency of the Bank, long entertained, and often and fully expressed, on many and solemn occasions, he but performed a high act of duty, both to the constitution and himself, for which he is entitled to the thanks of the country. As an act of justice to the President, he would go farther—even at the hazard of being rebuked by those who assumed to be his friends, as he was when he interposed in his favor on a late occasion, and say that the case of Mr. Madison, in approving the Bank bill, is not at all similar to his vetoing this, to which the Senator from Kentucky compared it in his remarks yesterday. It is well known that Mr. Madison, late in life, gave in to the most unfortunate and dangerous doctrine that the Supreme Court was the interpreter of the constitution in the last resort. With this opinion, it is not extraordinary that he should feel himself authorized to approve the Bank bill, under the force of precedents and the decisions of that court. The case is different with Mr. Tyler. It is understood that he does not agree with Mr. Madison, as to the authority of the Supreme Court, in deciding on constitutional questions; and with this difference, it is not surprising that the constitutional scruples of the one could be silenced by the decision of the court, backed by precedents, while that of the other could not.

And here he would avail himself of the opportunity to make a few remarks on the veto power. He did not regard that power with the aversion it was viewed on the opposite side of the chamber. On the contrary, according to his opinion, it was a high conservative power, intended not only to guard the rights of the Executive and that reserved by the constitution to the States and the people against the encroachments of Congress, but also the weaker interests of the community against the oppression and plunder of the stronger. It was, in this view, a high and salutary power, which, from its nature as a negative power, was almost incapable of abuse.



Having now expressed his opinion of the veto, he (Mr. CALHOUN) felt called on, in candor, to say that he was not prepared to give a full approval of the veto message. There was a part which he did not profess to understand; he alluded to that which spoke favorably of the functions of banks as regulating exchanges; but, if the construction which was intimated yesterday in debate, by the Senator from Kentucky, be the one intended by the President, he would not give it his approbation. That Senator intimated that his friends contemplate the introduction of another Bank bill, to deal in exchanges, in conformity with what was supposed to be the views of the President. In his opinion, such a Bank would be every way as objectionable as the one which has been vetoed. He could see no substantial difference between discounting promissory notes and bills of exchange, except that in the former, the banks were restricted by the usury laws of the States where they were situated, while in the latter they were not. But he trusted that the interpretation attempted to be put on this part of the Message was not the one intended by the President; and that if a bill, based on such construction, should be presented to him, that the same high consideration which has controlled him in vetoing the one which he has, will as imperiously control him also in vetoing such a bill. As to himself, he wished to be distinctly understood, he was opposed to the creation of a bank, or corporation of any form, as the fiscal agent of the Government. He believed, however modified, or wherever located, it would be alike unconstitutional and inexpedient. I (said Mr. C.) having now expressed my opinion of the veto, and the message, will go a step farther. The Bank is not the only question at issue before the country at this important juncture. There are others of not much less import, among which the distribution of the revenue from the lands, and the tariff, now pending before the Senate, may be ranked as the most prominent. I trust that the President will find it to be his duty to be found opposed to these, as well as to that which he has vetoed. If such should be the fact, my hearty approbation and support shall not be withheld. It has been my course under every President, while a member of Congress, to oppose measures I disapproved, and support those I approved. This rule I cannot depart from under this Administration; but there has been no President whom I would more cheerfully support than I would the present, if the measures of his Administration should be such as to permit it.

I regard (said Mr. C.) all the measures for which this session has been called, to constitute one system, of which each forms an essential part. They all point to one common object, whether intended or not—to build up a great overruling moneyed power, and to reduce the rest of the community to servitude; yes, to the very condition the great producing

classes are reduced in Europe. Thus regarding it, I shall wage interminable war against the whole, and shall oppose all who support it. I shall agree to no compromise, while liberty is at stake. If we shall be able to defeat the system at this session, with the aid of the Executive, it would be a great and glorious deliverance. I am not certain but that the next best result for the country would be for our opponents to carry through all the measures which we have been called here this extra session to pass. The earlier the issue is presented to the people the better, if the system is to be adopted. It would give more time for action, and make a more powerful appeal to the people, and tend more powerfully to rouse them up to effectual resistance. Go on, then, gentlemen, (addressing the opposite side,) consummate all your schemes. Force them through, as short as is the time, by your gags and despotic rules. Let them go to the people. There is no gag on the ballot box. If the people shall decide that Taxes, Tariff, Debts, Distribution, and an all-powerful Central Bank, are blessings, be it so. If they are prepared to take chains, it is not in the power of mortal man to prevent it; but I shall not—cannot—believe that this free, gallant, and enlightened people, are prepared to sink down into base servitude to an odious moneyed power, till I have witnessed the reality of the sad spectacle.

After some remarks by Mr. AROHES in reply to Messrs. CALHOUN and BENTON, the question was taken on the printing of the proceedings, and agreed to.

#### *Land Distribution Bill.*

Mr. WRIGHT observed, that the question, stripped of all delusion, was, whether money raised by taxes, for the economical administration of the General Government, was to be distributed to the several States, or applied solely to the purposes for which it was authorized to be raised. That the gentleman into whose hands the present Administration of the General Government had fallen, construed the question in the sense favorable to the system of distribution, was evident from the fact that they had passed by the power of their majorities in Congress an act to raise money to a large amount, by borrowing and creating a national debt, and were going to pass another act by the same means, to raise money by additional taxation on articles of general consumption, for the mere purpose of distributing a portion of the public revenue. They are so impatient to borrow money and raise taxes, that they may distribute largely, that they cannot even wait to refund the Treasury what has been advanced to acquire the public lands. If the amendment now offered is adopted, they say the whole principle of their bill is destroyed. They want the principle to remain untouched, that they can borrow money, and raise revenue by increased taxation for the

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purpose of purchasing lands and distributing them, and so go on, taxing and borrowing to distribute, and distributing to create a necessity for further taxation and borrowing.

The States have to be bribed to wink at taking money out of the Treasury, that the people may be taxed to put it back again into the Treasury, and then the States bribed over again that the people may be taxed over again. And so it is to go on. The bill has been cunningly devised for this operation. It goes on to state that the proceeds of the public lands shall be distributed, and then it provides nevertheless that certain deductions are to be first made. And what are these deductions? Why, merely the expense of bringing them into market. The cost of the raw material is left out; the mere expense of survey and clerk hire is refunded, and then the balance is distributed. In other words, the money to purchase the lands, or extinguish the Indian title, is to be taken out of the Treasury, from the tax levied on the country, through its consumption, and then the lands or the money received from them is to be given to the States, as if they had not cost a dollar. The chairman of the committee indeed thinks there may be a balance due from the Treasury to the public lands. He forgets, when he says this, that he stated quite the reverse in his opening speech. At first this distribution was to last but five years; now it is to be perpetual, unless this bill was repealed.

The Senator from Indiana (Mr. SMITH) made a grand display of the resources offered by this immense fund, the public domain—assuming that there were yet two thousand millions of acres to be disposed of. Well, perhaps he was right; but the Senator forgot to state the whole truth, namely, that only about two hundred millions of acres had yet been paid for, and that money has to be borrowed, and taxes have to be raised, to pay for *eighteen hundred millions of acres* more, before their proceeds can be distributed. But the principle is established in this bill, and who can tell the extent of borrowing and taxation which is to be resorted to to carry out the whole design?

Mr. CALHOUN said the amendment proposed the naked issue, whether this bill is what it professes to be or not. It professes to be a bill to distribute the net proceeds of the public lands, when the course of those who advocated it in resisting amendments that will restrict it to that object, shows conclusively that it is to be a distribution of the revenue derived from customs. Gentlemen, by their silence, admit this to be its purpose, and they act prudently in remaining silent when they can neither deny nor defend. The bill was false, fraudulent, and deceptive; and he would inform Senators, if they intended to force it through to-day, they would have a hard job of it.

Mr. SMITH, of Indiana, called for the question.

Mr. WOODBURY, Mr. BENTON, Mr. CLAY of

Alabama, and Mr. ALLEN, respectively advocated the amendment.

And then the question was taken on its adoption, by yeas and nays, as follows:

YEAS.—Messrs. Allen, Archer, Benton, Calhoun, Clay of Alabama, Cuthbert, Fulton, King, Linn, McRoberts, Monton, Nicholson, Pierce, Rives, Sevier, Sturgeon, Tappan, Walker, Williams, Woodbury, Wright, and Young—22.

NAYS.—Messrs. Bates, Bayard, Berrien, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Huntington, Ker, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Prentiss, Simmons, Smith of Indiana, Southard, Tallmadge, White, and Woodbridge—24.

Mr. CALHOUN offered an amendment, the purport of which was, that the money already due by the States, under the deposit act, distributing the surplus revenue, should be deducted in proportion to the debts of the respective States to the General Government, from their shares of distribution under this act. Mr. CALHOUN argued most convincingly, that there was no understanding at the time of distributing the revenue that it was to be considered a grant, not to be refunded to the General Government. He maintained, that there could not be an easier or more desirable way for the States to get rid of their debt to the General Government, than that proposed by this amendment. It would, in the end, be the same to them as if they were granted so much. He called for the yeas and nays.

Mr. BENTON observed, that it would not only be an easy way for the States to get rid of the vexed question about their indebtedness for that distribution of surplus revenue, but would enable the General Government to retain twenty-five millions, to fill up some part of the vacuum occasioned by paying for the public lands about to be distributed.

The question was then taken by yeas and nays, and decided as follows:

YEAS.—Messrs. Allen, Benton, Calhoun, Clay of Alabama, Fulton, King, Pierce, Tappan, Walker, Williams, Woodbury, and Wright—12.

NAYS.—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Henderson, Huntington, Ker, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Prentiss, Rives, Simmons, Smith of Indiana, Southard, Sturgeon, Tallmadge, White, and Woodbridge—29.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, August 20.

*Fiscal Corporation.*

On motion of Mr. SERGEANT, the committee took up House bill No. 14, being a bill reported from the Select Committee appointed by the House on the subject of the currency, entitled "A bill to incorporate the subscribers to the Fiscal Bank of the United States."

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Mr. SERGEANT said that he would state to the committee what he meant to propose to them. The committee would undoubtedly recollect the nature of the bill which had been reported by the Committee on the Currency some considerable time ago, and which was numbered "fourteen." His intention was now to move to amend the bill by striking out all after the enacting clause, and inserting what he would send to the Chair. His intention, further, was to ask, upon this motion being made, and certain amendments which he intended to propose being presented to the committee, that the committee should rise, in order that he might, in the House, move the printing of those amendments, that they might be laid before the members of the House. And then, as soon as that was done, he would ask the House to go into Committee of the Whole on the state of the Union, for the purpose of taking up the subject.

Mr. CHARLES BROWN said that it would be necessary to read the bill and amendments from beginning to end, before ordering the amendments to be printed.

The Clerk then read bill No. 14, with the amendments proposed by Mr. SERGEANT.

Mr. SERGEANT said that, as several inquiries had been made of him with regard to this bill, he would now proceed to make a short statement, to show in what respects it differed from that recently before this House. He would say, first, that there were two or three verbal errors in this bill, and there were words, in two or three places, which he thought had better have been left out, and which were intended to have been omitted by the committee. There were several gentlemen in the present Congress who entertained extreme hostility to the word "Bank," and, as far as he was concerned, he felt every disposition to indulge their feelings; and he had therefore endeavored throughout the bill to avoid using the word "Bank." If that word anywhere remained as applicable to the being it was proposed to create by this law, let it go out—let it go out. Now the word "corporation" sounded well, (laughter,) and he was glad to perceive it gave pleasure to the House. At all events, they had a new word to fight against. Now the difference between this bill and that which passed this House some days ago, would be seen by comparison. The present differed from the other principally in three or four particulars, and there were some other parts of the bill which varied, in minor particulars, from that which had been before the House a few days ago. Those differences gentlemen would have no difficulty in discovering and understanding when the bill should have been printed. He would now proceed to answer the inquiries of gentlemen in reference to this bill. Mr. S. then stated the following as the substantial points of difference between the two bills:

1. The capital in the former bill was thirty millions, with power to extend it to fifty

millions. In this bill twenty-one millions, with power to extend it to thirty-five millions.

2. The former bill provided for offices of discount and deposit. In this there are to be agencies only.

3. The dealings of the corporation are to be confined to buying and selling foreign bills of exchange, including bills drawn in one State or Territory, and payable in another. There are to be no discounts.

4. The title of the Corporation is changed.

Mr. WISE raised the point of order that this bill was, in substance, the same as that which had yesterday been rejected, and that it could not, therefore, be taken up; otherwise the constitutional provision might thus be evaded.

After some conversation, the CHAIRMAN overruled the objection, on the ground that the measures were not the same, though parts of them might be similar.

No appeal being taken, the motion of Mr. SERGEANT was put, and agreed to.

SATURDAY, August 21.

*Fiscal Corporation.*

Mr. SERGEANT offered the following resolution:

*Resolved*, That at 4 o'clock this day all debate in Committee of the Whole on the bill (No. 14) to incorporate the subscribers to the "Fiscal Bank of the United States" shall cease, and the committee shall then proceed to vote on the amendments then pending, or that may be offered to said bill; and the same shall then be reported to the House with such amendments as may have been agreed to by the committee: *Provided*, That nothing in this resolution shall prevent the committee from reporting the bill to the House at an earlier hour, if it shall think fit.

Mr. SERGEANT then modified his resolution so as to substitute "Monday," instead of "Saturday" at 4 o'clock.

And the question on the motion to lay the resolution on the table was then taken, and decided in the negative, as follows—yeas 87, nays 110.

So the resolution was not laid on the table.

And the question recurring on the demand for the previous question, there was a second.

And the main question (being on the adoption of the resolution) was ordered to be taken.

Mr. CAVE JOHNSON asked to be excused from voting. The bill, he said, was a new bill, and had but just been laid on the tables of members; and it was impossible for him, if the resolution was adopted, to do justice to his constituents, to the country, or to himself. He hoped the House would excuse him, and he hoped that no true Democrat would record his vote on a proposition of this kind. If the minority had no rights on that floor—

Mr. J. was called to order, and some confusion followed.

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A motion was made that Mr. J. have leave to proceed.

The yeas and nays were asked and ordered, and being taken were—yeas 108, nays 84.

So Mr. J. was allowed to proceed.

After a few further remarks from Mr. J. the question was taken, and the House refused to excuse him from voting.

Mr. CHARLES BROWN, of Pennsylvania, now rose to give his reasons for not voting upon the resolution. He had nothing to ask from the courtesy of the House. He did not wish to be placed in a false position. He had heard no improper debate yet upon the "Fiscal Corporation," nor could he tell, until the debate proceeded, whether he would or would not take the bill out of committee on Monday afternoon.

He asked to be excused from voting on the resolution, for reasons which he would give, if allowed. The bill, which the resolution, as at first offered by the gentleman from Philadelphia (Mr. SERGEANT) proposed to stop all discussion upon at 4 o'clock this afternoon, and which is now modified so as to extend it one day longer, was only laid upon their desks about half an hour before—not ten minutes preceding the resolution prescribing the time when it was to be voted upon; and this bill contained thirty-eight pages. No one had had an opportunity to read it, or know what were its provisions. It was said to be a new measure—the creation of a new *species* of institution, a *Fiscal Corporation*, hitherto entirely unknown in this country, either in State legislation or that of this Government. How, then, can any member now, before he reads it, before he knows what it is, or what it is not, say that he will be fully prepared to give his final vote upon it in one or two days? Why should he be made to say, before the discussion has been begun, before the first word is spoken, or even the bill itself brought under the consideration of the House, that he will, at a particular hour and minute, vote upon it? Can any one tell now that he will then have fully examined, not only the bill, long as it is, but all the amendments that may be offered to it? They might as well have been asked to vote on the bill yesterday, before they saw it, or on any other bill that the majority might introduce, at any time before they were seen or known. It was absurd to ask any one thus to commit himself, and no one could or would do it unless forced so to do, who believed himself to be a being capable of reasoning and judging, and had the perceptions and faculties usually bestowed upon man. The majority, said Mr. B., could finish the debate at any time they pleased, and if he found that it was unprofitable or unnecessary at any time, he would vote for its closing; but if it was calculated to enlighten the minds of members, to make the bill better, or better understood, it ought not to be stopped at any given moment. If the bill was to be debated or passed upon

as a measure of legislation affecting the people of the United States, it ought to be well considered, but if it was merely, as was said, or supposed to be, a measure to "head Captain Tyler"—

The SPEAKER called Mr. BROWN to order, because he alluded to Captain Tyler, a high functionary of the country.

Mr. BROWN said he did not intend any disrespect to the high functionary, as assumed by the Speaker.

The SPEAKER said he had called the gentleman to order for irrelevancy, and not for disrespect.

Mr. BROWN said he was glad of it; for, as at present advised, the high functionary alluded to stood second to no man in his opinion.

Mr. BROWN was called to order.

Mr. BROWN said if gentleman would tell him what he could say, and be in order, he would be obliged to them. When he was stopped, he was endeavoring to show to the House that he could not knowingly or conscientiously vote on the resolution, because he did not know, and could not foresee, what course the debate would take—what was or might be shown to be the character of the bill, or of the amendments that might be offered. He said that if the bill was a *bona fide* measure of the legislature to be passed into a law, to last for twenty years—to do all the good assumed by its friends, or the evil predicted by its opponents—to affect his constituents and the country for weal or for woe, it could not be matured in two days; and, in this view of the subject, he would vote against the resolution. But if it was a measure merely to try the strength, or develop the character of fractions of the dominant party, and the debate should be one of mere political party broil, he might be disposed to stop it soon, for he could not agree that his time should be wasted, and the money of the country expended to promote the views of any political party or ambitious demagogue. It might turn out to be a war between the Administration proper, at the other end of the avenue, and the Administration improper, at this end of the avenue; and there was abundant evidence that this was the only object of the bill. In this view of the subject he—

The SPEAKER called Mr. B. to order for irrelevancy.

Mr. BROWN said, if the Speaker would tell him what would be in order, he would try to keep in order. He was giving *his* reasons for desiring to be excused, and he thought it was for the House to consider the relevancy, not the Speaker.

The SPEAKER said the gentleman from Pennsylvania must take his seat.

Mr. HOPKINS, of Virginia, moved that the gentleman from Pennsylvania have leave to proceed in order.

The SPEAKER said he would entertain no motion in behalf of the gentleman from Penn-

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sylvania (Mr. Brown) until he obeyed the order of the House by taking his seat.

Mr. B. then sat down.

The yeas and nays were asked and ordered on the motion that Mr. B. have leave to proceed; and, being taken, were—yeas 84, nays 106.

So Mr. B. was not allowed to proceed.

Mr. Brown said he would excuse himself when the time came.

Mr. RHETT, of South Carolina, now rose to offer his reasons for asking to be excused from voting. He did so with all respect to the House; and, lest he should forget himself in the excitement of the time, he had written them down, and asked the House to permit him to put them upon the journal. His reasons were:

1. Because the rule by which the resolution is proposed is a violation of the spirit of the Constitution of the United States, which declares that the freedom of speech and of the press shall not be abridged by any law of Congress.

2. Because it destroys the character of this body, as a deliberative assembly: a *right* to deliberate and discuss measures being no longer in Congress, but with the majority only.

3. Because it is a violation of the rights of the people of the United States, through their Representatives, inherited from their ancestors, and enjoyed and practised time immemorial, to speak to the taxes imposed on them, when taxes are imposed.

4. Because, by the said rule, a bill may be taken up in Committee of the Whole, be immediately reported to the House, and, by the aid of the previous question, be passed into a law, without one word of debate being permitted or uttered.

5. Because free discussion of the laws by which the people are governed, is not only essential to right legislation, but is necessary to the preservation of the constitution, and the liberties of the people, and to fear or suppress it, is the characteristic of tyrannies and tyrants only.

6. Because the measure proposed to be forced through the House within less than two days' consideration, is one which deeply affects the integrity of the constitution and the liberties of the people; and to pass it with haste, and without due deliberation, would evince a contemptuous disregard of either, and may be a fatal violation of both.

The vote was then taken upon excusing Mr. RHETT, by yeas and nays, and there were:—yeas 82, nays 119.

So Mr. R. was not excused.

Mr. PICKENS rose and said: It is now manifest, from the votes which have been taken, that the House does not intend to excuse any member from voting. And as enough has been done to call public attention to the odious resolution proposed to be adopted, our object will have been attained; and I re-

spectfully suggest to our friends to go no further in this proceeding.

[Cries of "Agreed, agreed."]

The question on the adoption of the resolution, was then taken, and decided in the affirmative, as follows:

YEAS.—Messrs. Adams, Allen, L. W. Andrews, Arnold, Ayer, Babcock, Baker, Barnard, Barton, Birdseye, Black, Blair, Boardman, Botta, Brockway, Bronson, M. Brown, J. Brown, William Butler, William B. Campbell, T. J. Campbell, Caruthers, Childs, Chittenden, J. C. Clark, Staley N. Clarke, Cooper, Cowen, Cranston, Cravens, G. Davis, William O. Dawson, Dean, Deberry, J. Edwards, Everett, Fessenden, Fillmore, A. Lawrence Foster, Gamble, Gates, Gentry, Goggin, Patrick G. Goode, Graham, Green, Greig, Habersham, Halsted, Henry, Howard, Hudson, Hunt, J. Irvin, James, J. P. Kennedy, King, Lane, Lawrence, Linn, Samson Mason, Mathiot, Mattocks, Maxwell, Maynard, Moore, Morgan, Morris, Morrow, Nisbet, Osborne, Owsey, Pearce, Pendleton, Powell, Benjamin Randall, A. Randall, Randolph, Rayner, Ridgway, Rodney, Russell, Saltonstall, Sergeant, Shepperd, Simonton, Smith, Sollers, Stanley, Stokeley, Stratton, A. H. H. Stuart, J. T. Stuart, Summers, Taliaferro, John B. Thompson, R. W. Thompson, Tillinghast, Toland, Tomlinson, Triplett, Trumbull, Underwood, Wallace, Warren, Washington, E. D. White, J. L. White, Tho. W. Williams, L. Williams, C. H. Williams, Winthrop, Yorke, A. Young, and John Young—116.

NAYS.—Messrs. Arrington, Atherton, Banks, Beeson, Bidlack, Bowne, Aaron V. Brown, Burke, William O. Butler, John Campbell, Chapmar, Clifford, Clinton, Coles, Cross, Daniel, Richard D. Davis, John B. Dawson, Doig, Eastman, John C. Edwards, Egbert, John C. Floyd, Formance, Gerry, Gilmer, Gordon, Gustine, Harris, John Hastings, Hopkins, Houck, Houston, Hubard, Ingersoll, William W. Irwin, Jack, John W. Jones, Keim, Lewis, Littlefield, A. McClellan, McKay, Mallory, Marchand, T. F. Marshall, Mathews, Medill, Newhard, Parmenter, Payne, Pickens, Plumer, Pope, Ramsey, Reding, Rencher, Riggs, Rogers, Roosevelt, Sanford, Shaw, Shields, Slade, Snyder, Sprigg, Steenrod, Sumpter, Sweney, Turney, Ward, Watterson, Weller, Westbrook, J. W. Williams, Wise, and Wood—76.

So the resolution was adopted.

#### HOUSE OF REPRESENTATIVES.

MONDAY, August 28.

Mr. REYNOLDS, of Illinois, appeared, was qualified, and took his seat.

#### *Fiscal Corporation.*

On motion of Mr. SERGEANT, the House resolved itself into Committee of the Whole on the state of the Union, on the House bill No. 14, being a bill to incorporate the subscribers to the Fiscal Bank of the United States.

The pending question being on the motion of Mr. TURNER to strike out the enacting clause of the bill,

Mr. MARSHALL (who was entitled to the floor) addressed the committee. In the course of his

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remarks he expressed his satisfaction at the veto which the President had put on the Bank bill, which he said had received the approbation of no one; and at the same time he passed a high eulogium on the President for his eminent public services, and the purity of his principles.

Mr. M. said he should vote for the bill, because the veto seemed to give evidence that this bill would be signed. He was glad that the first bill had been vetoed. He now thought this bill was less objectionable, and would be signed, and that the wars of the Roses would be ended forever. He then went at length to show that the bill might be signed by the President, and quoted clauses from the veto Message, to sustain his argument. If the President would veto the bill, he should feel bound, as a representative of the country, to try him with it, not to trap him, not to head him, not to catch him with a running noose, but to try him.

The first question was on the motion of Mr. TURNER to strike out the enacting clause of the bill; and, by yeas 82, noes 102, it was rejected.

The question then recurred on the motion of Mr. SERGEANT, to strike out all after the enacting clause, and insert the amendments heretofore indicated by him.

The motion of Mr. SERGEANT was agreed to, and the amendments offered by him were, by yeas 113, noes 55, agreed to.

And then, on motion of Mr. SERGEANT, the committee rose and reported the bill to the House.

And the question on ordering the main question was then taken, and decided in the affirmative—yeas 120, nays 97.

So the House determined that the main question should now be taken.

The House then concurred with the Committee of the Whole in the amendments.

And the question being on ordering the bill and amendments to be engrossed for a third reading—

Mr. EASTMAN asked the yeas and nays, which were ordered; and, being taken, were—yeas 123, nays 94.

So the bill was ordered to be engrossed for a third reading.

And it was ordered to be read a third time now.

And the bill having been read by its title—

Mr. MORGAN moved the previous question.

Mr. WISE (who had endeavored to get the floor) submitted to the Speaker that the bill had not been read a third time.

The SPEAKER said that the reading of the bill by the title had been called for, and it had been so read accordingly.

Mr. WISE insisted on the bill being read at large; after which, he said, gentlemen could start fair for the floor.

And the Clerk then read the whole bill through, which occupied nearly an hour.

And the question being on the final passage thereof—

Mr. A. L. FOSTER, of New York, obtained the floor, and moved the previous question.

Mr. CAVE JOHNSON moved to lay the bill on the table; and asked the yeas and nays on that motion; which were ordered; and, being taken, were—yeas 93, nays 126.

So the bill was not laid on the table.

And the question recurring on the demand for the previous question, there was a second.

And the main question was ordered to be taken.

And on the main question, "Shall the bill pass?"

Mr. STANLY asked the yeas and nays; which were ordered, and, being taken, resulted as follows:

YEAS.—Messrs. Adams, Allen, L. W. Andrews, S. J. Andrews, Arnold, Aycrigg, Babcock, Baker, Barnard, Barton, Birdseye, Black, Blair, Boardman, Borden, Botta, Briggs, Brockway, Bronson, Milton Brown, J. Brown, Burnell, William Butler, Calhoun, Wm. B. Campbell, Thomas J. Campbell, Caruthers, John C. Clark, S. N. Clark, Cooper, Cranston, Cravens, Cushing, Wm. C. Dawson, Deberry, J. C. Edwards, Everett, Fessenden, Fillmore, A. Lawrence Foster, Gamble, Gates, Gentry, Goggin, Patrick G. Goode, Graham, Green, Greig, Habersham, Hall, Halsted, William S. Hastings, Henry, Howard, Hudson, Hunt, James Irvin, James, William Cost Johnson, Isaac D. Jones, J. P. Kennedy, King, Lane, Lawrence, Linn, Thomas F. Marshall, Samson Mason, Mathiot, Mattocks, Maxwell, Maynard, Moore, Morgan, Morris, Morrow, Nisbet, Osborne, Owaley, Pierce, Pendleton, Pope, Powell, Ramsey, Benjamin Randall, Alexander Randall, Randolph, Rayner, Rencher, Ridgway, Rodney, Russell, Saltonstall, Sergeant, Shepperd, Simonton, Slade, Smith, Stanly, Stokeley, Stratton, John T. Stuart, A. H. H. Stuart, Summers, Taliaferro, John B. Thompson, Richard W. Thompson, Tillinghast, Toland, Tomlinson, Triplett, Trumbull, Underwood, Wallace, Warren, Washington, Edward D. White, Joseph L. White, Thomas W. Williams, Lewis Williams, C. H. Williams, Joseph L. Williams, Winthrop, Yorke, Augustus Young, and John Young—125.

NAYS.—Messrs. Arrington, Atherton, Banks, Beeson, Bidlack, Bowne, Boyd, A. V. Brown, Charles Brown, Burke, Wm. O. Butler, Green W. Caldwell, P. C. Caldwell, John Caldwell, Cary, Chapman, Clifford, Clinton, Coles, Cross, Daniel, R. D. Davis, J. B. Dawson, Dean, Doan, Dolg, Eastman, John C. Edwards, Egbert, Ferris, John G. Floyd, Charles A. Floyd, Fornance, Thomas F. Foster, Gerry, Gilmer, William O. Goode, Gordou, Gustine, Harris, John Hastings, Hays, Holmes, Hopkins, Houck, Houston, Hubbard, Hunter, Ingersoll, William W. Irwin, Jack, Cave Johnson, J. W. Jones, Keim, A. Kennedy, Lewis, Littlefield, A. McClellan, Robert McClellan, McKay, Mallory, Marchand, J. Thompson Mason, Mathews, Medill, Miller, Newhard, Parmenter, Payne, Pickens, Plumer, Reding, Reynolds, Rhett, Riggs, Rogers, Roosevelt, Sanford, Saunders, Shaw, Shields, Snyder, Steenrod, Sumpter, Sweney, Turney, Van Buren, Ward, Watterson, Weller, Westbrook, James W. Williams, Wise, and Wood—94.

So the bill was passed.

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*Fiscal Corporation.*

[27TH CONG.]

## IN SENATE.

TUESDAY, August 24.

*Fiscal Corporation.*

Immediately after the reading of the journal—

A message was received from the House of Representatives by their Clerk, announcing that it had passed "An act to provide for the better collection, safe-keeping, and disbursement of the public revenue, by means of a corporation, to be styled the Fiscal Corporation of the United States."

Mr. BERRIEN moved that the bill be now read, for the purpose of reference; which was agreed to, and the bill read.

The CHAIR then put the question, shall this bill be read a second time? when a majority of voices seeming to be in the negative, a division and count was called for, when

The CHAIR announced that there were ayes 18, noes 17. So the bill was ordered to a second reading.

Mr. BERRIEN moved that it have its second reading now.

No objection being heard, the Secretary was proceeding to read the bill, when

Mr. ALLEN interposed an objection.

The CHAIR decided it was too late.

Mr. BERRIEN moved that the bill be referred to a Select Committee.

Mr. CLAY, of Kentucky, seconded the motion; and after referring to the great amount of labor the former Select Committee had with the Bank bill reported by them, requested the Chair not to place him on the committee to be raised on the present bill, as he did not wish to have any thing particularly to do with it. Whether he should support the bill or not, depended on whether his friends on the committee could present some practicable and useful scheme of a Bank of the United States.

Mr. BUCHANAN said he would vote for the motion to refer this bill to a Select Committee. He felt too great a regard for the Senator from Kentucky to force this thing upon the Committee on Finance, of which he was chairman. A correct judge of human nature had said that there was but one step between the sublime and the ridiculous. The great Whig party had taken that step, when they determined to create this being, called "The Fiscal Corporation of the United States." If this thing had derived its name from its nature, it ought to have been called "The Kite Flying Fiscality." The great Whig party had descended through different gradations until they at length sank to this Fiscality; and he, for one, should certainly not, by his vote, subject the Senator to the mortification of becoming its sponsor.

The motion having been agreed to, the bill was referred to a select committee of five, consisting of Mr. BERRIEN, Mr. EVANS, Mr. ARCHER, Mr. MOREHEAD, and Mr. HUNTINGTON.

FRIDAY, September 3.

*Fiscal Corporation.*

The bill to provide for the collection, safe-keeping, and disbursement of the public revenue by means of a Fiscal Corporation, coming up once more, as the unfinished business, and the question still being on ordering the bill to its third reading—

Mr. SIMMONS, of Rhode Island, spoke for about half an hour in favor of the bill.

Mr. BERRIEN, who had been charged with the bill, went into a general reply to the objections which had been urged against it, especially by Mr. BUCHANAN.

Mr. TAPPAN said when Senators on the other side declare that this Bank bill is intended to withhold from the corporation created by it the power of making loans and discounts, he felt himself bound to believe that such was their honest construction of it. He was, however, surprised that any man, in the slightest degree acquainted with the banking business of the country, who had read this bill, should suppose that, under its provisions, the company incorporated by it would not have unlimited power to loan their paper and to discount the paper of their customers. The ninth fundamental article says, that "the said corporation shall not, directly or indirectly, deal or trade in any thing except foreign bills of exchange, including bills or drafts drawn in one State or Territory, and payable in another." This bill, in its last clause, sanctioned a mode of discounting paper, and making loans, common in the Western country. He spoke of a mode of doing business which he had a full knowledge of, and he asked Senators, therefore, to look at it. A man who wants a loan from a bank applies to the directors, and is told, we can lend you the money, but we do not take notes for our loans—you must give us a draft; but, says the applicant, I have no funds anywhere to draw upon; no matter, say the bank-directors, your draft is not met, or expected to be met, because you have no funds, that need make no difference; you pay it here, *with the exchange*, when the time it has to run is out; so the borrower signs a draft or bill of exchange on somebody in New York, Philadelphia, or Baltimore, and pays the discount for the time it has to run; when that time comes round, the borrower pays into the Bank the amount of his draft, with two, four, six, or ten per cent., whatever the rate of exchange may be, and the affair is settled, and he gets a renewal for sixty days, by further paying the discount on the sum borrowed; and if it is an accommodation loan, it is renewed from time to time by paying the discount and exchange. Very few of the Western banks, he believed, discounted notes; they found it much more profitable to deal in exchange, as it is called; but this dealing in exchange enables the banks to discount as much paper, and to loan as much of their own notes, as the old-fashioned mode of discounting; it is

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*Fiscal Corporation.*

[SEPTEMBER, 1841.]

a difference in form merely, with this advantage to the banks, that it enables them to get from their customers ten or twelve per cent. on their loans, instead of the six, to which, in discounting notes, they are usually restricted. How, then, he asked, could Senators say that this bill did not give the power to make loans and discounts? He had showed them how, under this law, both loans and discounts will be made without limitation.

The question was then put, "Shall this bill be read a third time?" The yeas and nays having been demanded, the vote stood as follows:

YEAS.—Messrs. Archer, Barrow, Bates, Berrien, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Henderson, Huntington, Ker, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Prentiss, Preston, Simmons, Smith of Indiana, Southard, Tallmadge, White, and Woodbridge—27.

NAYS.—Messrs. Allen, Benton, Buchanan, Calhoun, Clay of Alabama, Cuthbert, Fulton, King, Linn, McRoberts, Mouton, Nicholson, Pierce, Rives, Sevier, Smith of Connecticut, Sturgeon, Tappan, Walker, Woodbury, Wright, and Young—22.

The bill was then read a third time by its title, and finally passed.

The question being next on the title of the bill,

Mr. TAPPAN moved that it be changed to the style and title of "The United States Bank." He contended that it was inconsistent with the boasted chivalry of the Senator from Kentucky to sanction any subterfuge, or shrink from calling things by their right names. This was nothing but a United States Bank, and it ought to be called by its real name, and not by one which was not applicable to it.

Several of Mr. TAPPAN's friends requested he would withdraw his motion, and at their request he did so.

The title was then agreed to.

[This bill, like the previous one, was disapproved by the President, and returned to the House, where it was rejected by a vote of 103 for the bill, 80 against it—less than the constitutional majority; and Congress adjourned.]



## TWENTY-SEVENTH CONGRESS.—SECOND SESSION.

### PROCEEDINGS AND DEBATES

#### IN THE

### SENATE AND HOUSE OF REPRESENTATIVES.

#### IN SENATE.

MONDAY, December 6, 1841.

The second session of the Twenty-seventh Congress convened to-day, in conformity with the Constitution of the United States. The PRESIDENT of the Senate took his seat at the hour of 12 o'clock.

On motion of Mr. BAYARD.

*Ordered*, That the Secretary of the Senate acquaint the House of Representatives that a quorum of the Senate is in attendance, and ready to proceed to business.

A message was received from the House, informing the Senate that there was a quorum of that body in attendance, and ready to proceed to business. That a committee of three had been appointed on the part of the House to join such committee as might be appointed on the part of the Senate, to wait on the President of the United States, and inform him that quorums of both Houses of Congress were in attendance, prepared to transact business, and receive any communication he might be pleased to transmit; when,

On motion of Mr. BAYARD, the PRESIDENT of the Senate was directed to name two to constitute the committee on the part of the Senate, in conformity with the above message; when Messrs. BAYARD and BATES were named by the PRESIDENT.

On motion of Mr. TALLMADGE,  
The Senate then adjourned.

#### HOUSE OF REPRESENTATIVES

MONDAY, December 6.

At 12 o'clock the SPEAKER called the House to order, and the roll was called, when 178 members answered to their names.

Mr. REYNOLDS, of Illinois, informed the SPEAKER that Gen. HENRY DODGE, the newly elected Delegate from the Territory of Wisconsin, was in attendance, and moved that the usual oath be administered to him.

Mr. DODGE was accordingly qualified, and took his seat.

On motion by Mr. FILLMORE,

The Hon. FRANCIS GRANGER, elected a Representative from the State of New York, to supply the vacancy occasioned by the resignation of the Hon. Mr. GREIG, was qualified, and took his seat.

A message was received from the Senate by Mr. DICKINS, their Secretary, stating that a quorum of that body had assembled, and were ready to proceed to business.

Mr. JOHNSON, of Maryland, rose, and stated that his name stood on the list of one of the most important committees of the last session—the Committee on Public Lands; and, as the important measure which he had most at heart had been passed upon, in the enactment of the Land bill, he hoped the Speaker would omit his name in filling up that committee for this session. There was another measure in which he took an equal interest, and that was the establishment of a national foundry. He gave notice that he would take the earliest opportunity of moving for a Select Committee to take that subject into consideration.

On motion by Mr. WISE,  
The House adjourned.

#### IN SENATE.

TUESDAY, December 7.

Mr. BAYARD, from the Joint Committee on the part of the Senate to wait upon the President of the United States, and inform him that Congress was organized for business, reported

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*The President's Message.*

[DECEMBER, 1841.]

that that duty had been performed, and that the President had informed the committee that he would this day, at 12 o'clock, communicate to both Houses a message in writing. Whereupon

A Message from the President of the United States was received by ROBERT TYLER, Esq., his private secretary.

The CHAIR then communicated to the Senate the Message of the President, which was read as follows:

*To the Senate and House of Representatives of the United States:*

In coming together, fellow-citizens, to enter again upon the discharge of the duties with which the people have charged us, severally, we find great occasion to rejoice in the general prosperity of the country. We are in the enjoyment of all the blessings of civil and religious liberty, with unexampled means of education, knowledge, and improvement. Through the year which is now drawing to a close, peace has been in our borders, and plenty in our habitations; and although disease has visited some few portions of the land with distress and mortality, yet in general the health of the people has been preserved, and we are all called upon, by the highest obligations of duty, to renew our thanks and our devotion to our Heavenly Parent, who has continued to vouchsafe to us the eminent blessings which surround us, and who has so signally crowned the year with his goodness. If we find ourselves increasing, beyond example, in numbers, in strength, in wealth, in knowledge, in every thing which promotes human and social happiness, let us ever remember our dependence, for all these, on the protection and merciful dispensations of Divine Providence.

Since your last adjournment, Alexander McLeod, a British subject, who was indicted for the murder of an American citizen, and whose case has been the subject of a correspondence heretofore communicated to you, has been acquitted by the verdict of an impartial and intelligent jury, and has, under the judgment of the court, been regularly discharged.

Great Britain having made known to this Government that the expedition which was fitted out from Canada for the destruction of the steamboat *Caroline*, in the winter of 1837, and which resulted in the destruction of said boat, and in the death of an American citizen, was undertaken by orders emanating from the authorities of the British Government in Canada, and demanding the discharge of McLeod, upon the ground that, if engaged in that expedition, he did but fulfil the orders of his Government, has thus been answered in the only way in which she could be answered by a Government, the powers of which are distributed among its several departments by the fundamental law. Happily for the people of Great Britain, as well as for those of the United States, the only mode by which an individual, arraigned for a criminal offence, before the courts of either, can obtain his discharge, is by the independent action of the judiciary, and by proceedings equally familiar to the courts of both countries.

If in Great Britain a power exists in the crown to cause to be entered a *nolle prosequi*, which is not the case with the Executive power of the United

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States upon a prosecution pending in a State court; yet *there* no more than *here*, can the chief Executive power rescue a prisoner from custody without an order from the proper tribunal directing his discharge. The precise stage of the proceedings at which such order may be made, is a matter of municipal regulation exclusively, and not to be complained of by any other Government. In cases of this kind, a Government becomes politically responsible only, when its tribunals of last resort are shown to have rendered unjust and injurious judgments in matters not doubtful. To the establishment and elucidation of this principle, no nation has lent its authority more efficiently than Great Britain. Alexander McLeod having his option either to prosecute a writ of error from the decision of the Supreme Court of New York, which had been rendered upon his application for a discharge, to the Supreme Court of the United States, or to submit his case to the decision of a jury, preferred the latter, deeming it the readiest mode of obtaining his liberation; and the result has fully sustained the wisdom of his choice. The manner in which the issue submitted was tried, will satisfy the English Government that the principles of justice will never fail to govern the enlightened decision of an American tribunal. I cannot fail, however, to suggest to Congress the propriety, and in some degree the necessity, of making such provisions by law, so far as they may constitutionally do so, for the removal, at their commencement, and at the option of the party, of all such cases as may hereafter arise, and which may involve the faithful observance and execution of our international obligations, from the State to the Federal Judiciary. This Government, by our institutions, is charged with the maintenance of peace and the preservation of amicable relations with the nations of the earth, and ought to possess, without question, all the reasonable and proper means of maintaining the one and preserving the other. Whilst just confidence is felt in the Judiciary of the States, yet this Government ought to be competent in itself for the fulfilment of the high duties which have been devolved upon it under the organic law, by the States themselves.

In the month of September, a party of armed men from Upper Canada invaded the territory of the United States, and forcibly seized upon the person of one Grogan, and, under circumstances of great harshness, hurriedly carried him beyond the limits of the United States, and delivered him up to the authorities of Upper Canada. His immediate discharge was ordered by those authorities, upon the facts of the case being brought to their knowledge—a course of procedure which was to have been expected from a nation with whom we are at peace, and which was not more due to the rights of the United States than to its own regard for justice. The correspondence which passed between the Department of State and the British Envoy, Mr. Fox, and with the Governor of Vermont, as soon as the facts had been made known to this Department, are herewith communicated.

I regret that it is not in my power to make known to you an equally satisfactory conclusion in the case of the *Caroline* steamer, with the circumstances connected with the destruction of which, in December, 1837, by an armed force fitted out in the Province of Upper Canada, you are already made acquainted. No such atonement as was due

for the public wrong done to the United States by this invasion of her territory, so wholly irreconcilable with her rights as an independent power, has yet been made. In the view taken by this Government, the inquiry whether the vessel was in the employment of those who were prosecuting an unauthorized war against that Province, or was engaged by the owner in the business of transporting passengers to and from Navy Island in hopes of private gain, which was most probably the case, in no degree alters the real question at issue between the two Governments. This Government can never concede to any foreign Government the power, except in a case of the most urgent and extreme necessity, of invading its territory, either to arrest the persons or destroy the property of those who may have violated the municipal laws of such foreign Government, or have disregarded their obligations arising under the law of nations. The territory of the United States must be regarded as sacredly secure against all such invasions, until they shall voluntarily acknowledge their inability to acquit themselves of their duties to others. And in announcing this sentiment, I do but affirm a principle which no nation on earth would be more ready to vindicate, at all hazards, than the people and Government of Great Britain.

If, upon a full investigation of all the facts, it shall appear that the owner of the *Caroline* was governed by a hostile intent, or had made common cause with those who were in the occupancy of Navy Island, then, so far as he is concerned, there can be no claim to indemnity for the destruction of his boat, which this Government would feel itself bound to prosecute—since he would have acted not only in derogation of the rights of Great Britain, but in clear violation of the laws of the United States; but that is a question which, however settled, in no manner involves the higher consideration of the violation of territorial sovereignty and jurisdiction. To recognize it as an admissible practice that each Government, in its turn, upon any sudden and unauthorized outbreak, which, on a frontier, the extent of which renders it impossible for either to have an efficient force on every mile of it, and which outbreak, therefore, neither may be able to suppress in a day, may take vengeance into its own hands, and without even a remonstrance, and in the absence of any pressing or overruling necessity, may invade the territory of the other, would inevitably lead to results equally to be deplored by both. When border collisions come to receive the sanction, or to be made on the authority of either Government, general war must be the inevitable result. While it is the ardent desire of the United States to cultivate the relations of peace with all nations, and to fulfil all the duties of good neighborhood towards those who possess territories adjoining their own, that very desire would lead them to deny the right of any foreign power to invade their boundary with an armed force. The correspondence between the two Governments on this subject, will, at a future day of your session, be submitted to your consideration; and, in the mean time, I cannot but indulge the hope that the British Government will see the propriety of renouncing, as a rule of future action, the precedent which has been set in the affair at *Schlosser*.

I herewith submit the correspondence which has recently taken place between the American Minister at the Court of St. James, Mr. Stevenson, and

the Minister of Foreign Affairs of that Government, on the right claimed by that Government to visit and detain vessels sailing under the American flag, and engaged in prosecuting lawful commerce in the African seas. Our commercial interests in that region have experienced considerable increase, and have become an object of much importance, and it is the duty of this Government to protect them against all improper and vexatious interruption. However desirous the United States may be for the suppression of the slave-trade, they cannot consent to interpolations into the maritime code, at the mere will and pleasure of other Governments. We deny the right of any such interpolation to any one, or all the nations of the earth, without our consent. We claim to have a voice in all amendments or alterations of that code—and when we are given to understand, as in this instance, by a foreign Government, that its treaties with other nations cannot be executed without the establishment and enforcement of new principles of maritime police, to be applied without our consent, we must employ a language neither of equivocal import, nor susceptible of misconstruction. American citizens prosecuting a lawful commerce in the African seas, under the flag of their country, are not responsible for the abuse or unlawful use of that flag by others; nor can they rightfully, on account of any such alleged abuses, be interrupted, molested, or detained while on the ocean; and if thus molested and detained, while pursuing honest voyages, in the usual way, and violating no laws themselves, they are unquestionably entitled to indemnity. This Government has manifested its repugnance to the slave-trade, in a manner which cannot be misunderstood. By its fundamental law, it prescribed limits in point of time to its continuance; and against its own citizens, who might so far forget the rights of humanity as to engage in that wicked traffic, it has long since, by its municipal laws, denounced the most condign punishment. Many of the States composing this Union had made appeals to the civilized world for its suppression, long before the moral sense of other nations had become shocked by the iniquities of the traffic. Whether this Government should now enter into treaties containing mutual stipulations upon this subject, is a question for its mature deliberation. Certain it is, that if the right to detain American ships on the high seas can be justified on the plea of a necessity for such detention, arising out of the existence of treaties between other nations, the same plea may be extended and enlarged by the new stipulations of new treaties, to which the United States may not be a party. This Government will not cease to urge upon that of Great Britain full and ample remuneration for all losses, whether arising from detention or otherwise, to which American citizens have heretofore been, or may hereafter be subjected, by the exercise of rights which this Government cannot recognize as legitimate and proper. Nor will I indulge a doubt but that the sense of justice of Great Britain will constrain her to make retribution for any wrong, or loss, which any American citizen, engaged in the prosecution of lawful commerce, may have experienced at the hand of her cruisers, or other public authorities. This Government, at the same time, will relax no effort to prevent its citizens, if there be any so disposed, from prosecuting a traffic so revolting to the feelings of humanity. It seeks to do no more than to protect the fair and honest

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trader from molestation and injury; but while the enterprising mariner, engaged in the pursuit of an honorable trade, is entitled to its protection, it will visit with condign punishment others of an opposite character.

I invite your attention to existing laws for the suppression of the African slave-trade, and recommend all such alterations as may give to them greater force and efficacy. That the American flag is grossly abused by the abandoned and profligate of other nations, is but too probable. Congress has, not long since, had this subject under its consideration, and its importance well justifies renewed and anxious attention.

I also communicate herewith the copy of a correspondence between Mr. Stevenson and Lord Palmerston, upon the subject, so interesting to several of the Southern States, of the rice duties, which resulted honorably to the justice of Great Britain, and advantageously to the United States.

At the opening of the last annual session, the President informed Congress of the progress which had then been made in negotiating a convention between this Government and that of England, with a view to the final settlement of the question of the boundary between the territorial limits of the two countries. I regret to say that little further advancement of the object has been accomplished since last year; but this is owing to circumstances no way indicative of any abatement of the desire of both parties to hasten the negotiation to its conclusion, and to settle the question in dispute as early as possible. In the course of the session, it is my hope to be able to announce some further degree of progress towards the accomplishment of this highly desirable end.

The commission appointed by this Government for the exploration and survey of the line of boundary separating the States of Maine and New Hampshire from the conterminous British Provinces, is, it is believed, about to close its field labors, and is expected soon to report the result of its examinations to the Department of State. The report, when received, will be laid before Congress.

The failure on the part of Spain to pay, with punctuality, the interest due under the Convention of 1834, for the settlement of claims between the two countries, has made it the duty of the Executive to call the particular attention of that Government to the subject. A disposition has been manifested by it, which is believed to be entirely sincere, to fulfil its obligations, in this respect, so soon as its internal condition and the state of its finances will permit. An arrangement is in progress, from the result of which, it is trusted that those of our citizens who have claims under the Convention, will, at no distant day, receive the stipulated payments.

A Treaty of Commerce and Navigation with Belgium was concluded and signed at Washington on the 29th March, 1840, and was duly sanctioned by the Senate of the United States. The treaty was ratified by His Belgian Majesty, but did not receive the approbation of the Belgian Chambers within the time limited by its term, and has, therefore, become void.

This occurrence assumes the graver aspect from the consideration that, in 1838, a treaty negotiated between the two Governments, and ratified on the part of the United States, failed to be ratified on the part of Belgium. The Representative of that Government, at Washington, informs the Department of State that he has been instructed to give explanations

of the causes which occasioned delay in the approval of the late Treaty by the Legislature, and to express the regret of the King at the occurrences.

The joint commission under the Convention with Texas, to ascertain the true boundary between the two countries, has concluded its labors; but the final report of the commissioner of the United States has not been received. It is understood, however, that the meridian line, as traced by the commission, lies somewhat further East than the position hitherto generally assigned to it, and, consequently, includes in Texas some part of the territory which had been considered as belonging to the States of Louisiana and Arkansas.

The United States cannot but take a deep interest in whatever relates to this young, but growing Republic. Settled principally by emigrants from the United States, we have the happiness to know, that the great principles of civil liberty are there destined to flourish, under wise institutions and wholesome laws; and that, through its example, another evidence is to be afforded of the capacity of popular institutions to advance the prosperity, happiness, and permanent glory of the human race. The great truth, that Government was made for the people, and not the people for Government, has already been established in the practice and by the example of these United States; and we can do no other than contemplate its further exemplification by a sister Republic, with the deepest interest.

Our relations with the independent States of this hemisphere, formerly under the dominion of Spain, have not undergone any material change within the present year. The incessant sanguinary conflicts in, or between, those countries, are to be greatly deplored, as necessarily tending to disable them from performing their duties as members of the community of nations, and rising to the destiny which the position and natural resources of many of them might lead them justly to anticipate; as constantly giving occasion, also, directly or indirectly, for complaints on the part of our citizens who resort thither for purposes of commercial intercourse, and as retarding reparation for wrongs already committed, some of which are by no means of recent date.

The failure of the Congress of Ecuador to hold a session, at the time appointed for that purpose, in January last, will probably render abortive a treaty of commerce with that Republic, which was signed at Quito on the 18th of June, 1839, and had been duly ratified on our part, but which required the approbation of that body, prior to its ratification by the Ecuadorian Executive.

A convention which has been concluded with the Republic of Peru, providing for the settlement of certain claims of citizens of the United States, upon the Government of that Republic, will be duly submitted to the Senate.

The claims of our citizens against the Brazilian Government, originating from captures, and other causes, are still unsatisfied. The United States have, however, so uniformly shown a disposition to cultivate relations of amity with that Empire, that it is hoped, the unequivocal tokens of the same spirit towards us, which an adjustment of the affairs referred to would afford, will be given without further avoidable delay.

The war with the Indian tribes on the peninsula of Florida has, during the last summer and fall, been prosecuted with untiring activity and zeal. A summer campaign was resolved upon as the best mode of

bringing it to a close. Our brave officers and men who have been engaged in that service, have suffered toils and privations, and exhibited an energy, which, in any other war, would have won for them unfading laurels. In despite of the sickness incident to the climate, they have penetrated the fastnesses of the Indians, broken up their encampments, and harassed them unceasingly. Numbers have been captured, and still greater numbers have surrendered, and have been transported to join their brethren on the lands elsewhere allotted to them by the Government—and a strong hope is entertained that, under the conduct of the gallant officer at the head of the troops in Florida, that troublesome and expensive war is destined to a speedy termination. With all the other Indian tribes we are enjoying the blessings of peace. Our duty, as well as our best interests, prompt us to observe, in all our intercourse with them, fidelity in fulfilling our engagements, the practice of strict justice, as well as the constant exercise of benevolence and kindness. These are the great instruments of civilization, and through the use of them alone, can the untutored child of the forest be induced to listen to its teachings.

The Secretary of State, on whom the acts of Congress have devolved the duty of directing the proceedings for the taking of the Sixth Census, or enumeration of the inhabitants of the United States, will report to the two Houses the progress of that work. The enumeration of persons has been completed, and exhibits a grand total of 17,069,458; making an increase over the Census of 1830 of 4,202,646 inhabitants, and showing a gain in a ratio exceeding 82½ per cent. for the last ten years.

From the report of the Secretary of the Treasury, you will be informed of the condition of the finances. The balance in the Treasury on the first of January last, as stated in the report of the Secretary of the Treasury, as submitted to Congress at the Extra Session, was \$987,845 08. The receipts into the Treasury, during the first three quarters of this year, from all sources, amount to \$23,467,072 52. The estimated receipts for the fourth quarter amount to \$6,948,095 25, amounting to \$80,410,167 77; and making, with the balance in the Treasury on the first of January last, \$81,897,518 20. The expenditures for the first three quarters of this year amount to \$24,734,846 97. The expenditures for the fourth quarter, as estimated, will amount to \$7,390,237 73—thus making a total of \$32,025,070 70; and leaving a deficit to be provided for, on the first of January next, of about \$627,557 90.

Of the loan of \$12,000,000, which was authorized by Congress at its late session, only \$5,482,726 88 have been negotiated. The shortness of time which it had to run has presented no inconsiderable impediment in the way of its being taken by capitalists at home, while the same cause would have operated with much greater force in the foreign market. For that reason the foreign market has not been resorted to; and it is now submitted, whether it would not be advisable to amend the law by making what remains undisposed of, payable at a more distant day.

Should it be necessary, in any view that Congress may take of the subject, to revise the existing tariff of duties, I beg leave to say, that, in the performance of that most delicate operation, moderate counsels would seem to be the wisest. The Government under which it is our happiness to live, owes its existence to the spirit of compromise which prevailed among its framers—jarring and discordant opinions

could only have been reconciled by that noble spirit of patriotism, which prompted conciliation, and resulted in harmony. In the same spirit the Compromise bill, as it is commonly called, was adopted at the session of 1833. While the people of no portion of the Union will ever hesitate to pay all necessary taxes for the support of Government, yet an innate repugnance exists to the imposition of burthens not really necessary for that object. In imposing duties, however, for the purposes of revenue, a right to discriminate as to the articles on which the duty shall be laid, as well as the amount, necessarily and most properly exists. Otherwise the Government would be placed in the condition of having to levy the same duties upon all articles, the productive, as well as the unproductive. The slightest duty upon some, might have the effect of causing their importation to cease, whereas others, entering extensively into the consumption of the country, might bear the heaviest, without any sensible diminution in the amount imported. So, also, the Government may be justified in so discriminating, by reference to other considerations of domestic policy connected with our manufactures. So long as the duties shall be laid with distinct reference to the wants of the Treasury, no well-founded objection can exist against them. It might be esteemed desirable that no such augmentation of the taxes should take place as would have the effect of annulling the land proceeds distribution act of the last session, which act is declared to be inoperative the moment the duties are increased beyond 20 per cent., the maximum rate established by the Compromise act. Some of the provisions of the Compromise act, which will go into effect on the 30th day of June next, may, however, be found exceedingly inconvenient in practice, under any regulations that Congress may adopt. I refer more particularly to that relating to the home valuation. A difference in value of the same articles to some extent, will, necessarily, exist at different ports—but that is altogether insignificant, when compared with the conflicts in valuation, which are likely to arise, from the differences of opinion among the numerous appraisers of merchandise. In many instances the estimates of value must be conjectural, and thus as many different rates of value may be established as there are appraisers. These differences in valuation may also be increased by the inclination, which, without the slightest imputation on their honesty, may arise on the part of the appraisers in favor of their respective ports of entry. I recommend this whole subject to the consideration of Congress, with a single additional remark. Certainty and permanency in any system of governmental policy are, in all respects, eminently desirable; but more particularly is this true in all that affects trade and commerce, the operations of which depend much more on the certainty of their returns, and calculations which embrace distant periods of time, than on high bounties, or duties which are liable to constant fluctuations.

At your late session, I invited your attention to the condition of the currency and exchanges, and urged the necessity of adopting such measures as were consistent with the constitutional competency of the Government, in order to correct the unsoundness of the one, and, as far as practicable, the inequalities of the other. No country can be in the enjoyment of its full measure of prosperity, without the presence of a medium of exchange approximating to uniformity of value. What is necessary as between the different nations of the earth, is also important as

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between the inhabitants of different parts of the same country; with the first, the precious metals constitute the chief medium of circulation, and such also would be the case as to the last, but for inventions comparatively modern, which have furnished, in place of gold and silver, a paper circulation. I do not propose to enter into a comparative analysis of the merits of the two systems. Such belonged more properly to the period of the introduction of the paper system. The speculative philosopher might find inducements to prosecute the inquiry, but his researches could only lead him to conclude that the paper system had properly better never have been introduced, and that society might have been much happier without it. The practical statesman has a very different task to perform. He has to look at things as they are—to take them as he finds them—to supply deficiencies, and to prune excesses as far as in him lies. The task of furnishing a corrective for derangements of the paper medium with us, is almost inexpressibly great. The power exerted by the States to charter banking corporations, and which, having been carried to a great excess, has filled the country with, in most of the States, an irredeemable paper medium, is an evil which, in some way or other, requires a corrective. The rates at which bills of exchange are negotiated between different parts of the country, furnish an index of the value of the local substitute for gold and silver, which is, in many parts, so far depreciated as not to be received, except at a large discount, in payment of debts, or in the purchase of produce. It could earnestly be desired that every bank, not possessing the means of resumption, should follow the example of the late United States Bank of Pennsylvania, and go into liquidation, rather than by refusing to do so, to continue embarrassments in the way of solvent institutions, thereby augmenting the difficulties incident to the present condition of things. Whether this Government, with due regard to the rights of the States, has any power to constrain the banks, either to resume specie payments or to force them into liquidation, is an inquiry which will not fail to claim your consideration. In view of the great advantages which are allowed the corporations, not amongst the least of which is the authority contained in most of their charters, to make loans to three times the amount of their capital, thereby often deriving three times as much interest on the same amount of money as any individual is permitted by law to receive, no sufficient apology can be urged for a long-continued suspension of specie payments. Such suspension is productive of the greatest detriment to the public, by expelling from circulation the precious metals, and seriously hazarding the success of any effort that this Government can make, to increase commercial facilities, and to advance the public interests.

This is the more to be regretted, and the indispensable necessity for a sound currency becomes the more manifest, when we reflect on the vast amount of the internal commerce of the country. Of this we have no statistics, nor just data for forming adequate opinions. But there can be no doubt but that the amount of transportation coastwise by sea, and the transportation inland by railroads and canals, and by steamboats and other modes of conveyance, over the surface of our vast rivers and immense lakes, and the value of property carried and interchanged by these means, form a general aggregate to which the foreign commerce of the country, large as it is, makes but a distant approach.

In the absence of any controlling power over this subject, which, by forcing a general resumption of specie payments, would at once have the effect of restoring a sound medium of exchange, and would leave to the country but little to desire, what measure of relief, falling within the limits of our constitutional competency, does it become this Government to adopt? It was my painful duty at your last session, under the weight of most solemn obligations, to differ with Congress on the measures which it proposed for my approval, and which it doubtless regarded as corrective of existing evils. Subsequent reflection, and events since occurring, have only served to confirm me in the opinions then entertained, and frankly expressed.

I must be permitted to add, that no scheme of Governmental policy, unaided by individual exertions, can be available for ameliorating the present condition of things. Commercial modes of exchange and a good currency, are but the necessary means of commerce and intercourse, not the direct productive sources of wealth. Wealth can only be accumulated by the earnings of industry and the savings of frugality; and nothing can be more ill-judged than to look to facilities in borrowing, or to a redundant circulation, for the power of discharging pecuniary obligations. The country is full of resources, and the people full of energy, and the great and permanent remedy for present embarrassments must be sought in industry, economy, the observance of good faith, and the favorable influence of time.

In pursuance of a pledge given to you in my last Message to Congress, which pledge I urge as an apology for venturing to present you the details of any plan, the Secretary of the Treasury will be ready to submit to you, should you require it, a plan of finance which, while it throws around the public treasure reasonable guards for its protection, and rests on powers acknowledged in practice to exist from the origin of the Government, will, at the same time, furnish to the country a sound paper medium, and afford all reasonable facilities for regulating the exchanges. When submitted, you will perceive in it a plan amendatory of the existing laws in relation to the Treasury Department—subordinate in all respects to the will of Congress directly, and the will of the people indirectly—self-sustaining, should it be found in practice to realize its promises in theory, and repealable at the pleasure of Congress. It proposes by effectual restraints, and by invoking the true spirit of our institutions, to separate the purse from the sword; or more properly to speak, denies any other control to the President over the agents who may be selected to carry it into execution, but what may be indispensably necessary to secure the fidelity of such agents; and, by wise regulations, keeps plainly apart from each other private and public funds. It contemplates the establishment of a Board of Control at the seat of Government, with agencies at prominent commercial points, or wherever else Congress shall direct, for the safe-keeping and disbursement of the public moneys, and a substitution, at the option of the public creditor, of Treasury notes, in lieu of gold and silver. It proposes to limit the issues to an amount not to exceed \$15,000,000—without the express sanction of the Legislative power. It also authorizes the receipt of individual deposits of gold and silver to a limited amount, and the granting certificates of deposit, divided into such sums as may be called for by the depositors. It proceeds a step further, and authorizes the purchase and sale of domes-

the bills and drafts, resting on a real and substantial basis, payable at sight, or having but a short time to run, and drawn on places not less than one hundred miles apart—which authority, except in so far as may be necessary for Government purposes exclusively, is only to be exerted upon the express condition, that its exercise shall not be prohibited by the State in which the agency is situated.

In order to cover the expenses incident to the plan, it will be authorized to receive moderate premiums for certificates issued on deposits, and on bills bought and sold, and thus, as far as its dealings extend, to furnish facilities to commercial intercourse at the lowest possible rates, and to subduct from the earnings of industry the least possible sum. It uses the State banks at a distance from the agencies as auxiliaries, without imparting any power to trade in its name. It is subjected to such guards and restraints as have appeared to be necessary. It is the creature of law, and exists only at the pleasure of the legislature. It is made to rest on an actual specie basis, in order to redeem the notes at the places of issue—produces no dangerous redundancy of circulation—affords no temptation to speculation—is attended by no inflation of prices—is equable in its operation—makes the Treasury notes, which it may use along with the certificates of deposit, and the notes of specie-paying banks, convertible at the place where collected, receivable in payment of Government dues; and, without violating any principle of the constitution, affords the Government and the people such facilities as are called for by the wants of both. Such, it has appeared to me, are its recommendations, and in view of them it will be submitted, whenever you may require it, to your consideration.

I am not able to perceive that any fair and candid objection can be urged against the plan, the principal outlines of which I have thus presented. I cannot doubt but that the notes which it proposes to furnish, at the voluntary option of the public creditor, issued in lieu of the revenue and its certificates of deposit, will be maintained at an equality with gold and silver everywhere. They are redeemable in gold and silver on demand, at the places of issue. They are receivable everywhere in payment of Government dues. The Treasury notes are limited to an amount of one-fourth less than the estimated annual receipts of the Treasury; and in addition, they rest upon the faith of the Government for their redemption. If all these assurances are not sufficient to make them available, then the idea, as it seems to me, of furnishing a sound paper medium of exchanges, may be entirely abandoned.

If a fear be indulged that the Government may be tempted to run into excess in its issues at any future day, it seems to me that no such apprehension can reasonably be entertained, until all confidence in the representatives of the States and of the people, as well as of the people themselves, shall be lost. The weightiest considerations of policy require that the restraints now proposed to be thrown around the measure should not, for light causes, be removed. To argue against any proposed plan its liability to possible abuse, is to reject every expedient, since every thing dependent on human action is liable to abuse. Fifteen millions of Treasury notes may be issued as the *maximum*, but a discretionary power is to be given to the Board of Control, under that sum, and every consideration will unite in leading them to feel their way with caution. For the eight first years of the existence of the late Bank of

the United States, its circulation barely exceeded \$4,000,000; and for five of its most prosperous years, it was about equal to \$18,000,000. Furthermore, the authority given to receive private deposits to a limited amount, and to issue certificates in such sums as may be called for by the depositors, may so far fill up the channels of circulation as greatly to diminish the necessity of any considerable issue of Treasury notes. A restraint upon the amount of private deposits has seemed to be indispensably necessary, from an apprehension, thought to be well-founded, that in any emergency of trade, confidence might be so far shaken in the banks as to induce a withdrawal from them of private deposits, with a view to ensure their unquestionable safety when deposited with the Government, which might prove eminently disastrous to the State banks. It is objected, that it is proposed to authorize the agencies to deal in bills of exchange? It is answered, that such dealings are to be carried on at the lowest possible premium—are made to rest on an unquestionably sound basis—are designed to reimburse merely the expenses which would otherwise devolve upon the Treasury, and are in strict subordination to the decision of the Supreme Court, in the case of the Bank of Augusta against Earle, and other reported cases, and thereby avoids all conflict with State jurisdiction, which I hold to be indispensably requisite. It leaves the banking privileges of the States without interference—looks to the Treasury and the Union—and, while furnishing every facility to the first, is careful of the interests of the last. But above all, it is created by law, is amendable by law, and is repealable by law; and wedded as I am to no theory, but looking solely to the advancement of the public good, I shall be among the very first to urge its repeal, if it be found not to subserve the purposes and objects for which it may be created. Nor will the plan be submitted in any overweening confidence in the sufficiency of my own judgment, but with much greater reliance on the wisdom and patriotism of Congress. I cannot abandon this subject without urging upon you, in the most emphatic manner, whatever may be your action on the suggestions which I have felt it to be my duty to submit, to relieve the Chief Executive Magistrate by any and all constitutional means, from a controlling power over the public Treasury. If, in the plan proposed, should you deem it worthy of your consideration, that separation is not as complete as you may desire, you will, doubtless, amend it in that particular. For myself, I disclaim all desire to have any control over the public moneys, other than what is indispensably necessary, to execute the laws which you may pass.

Nor can I fail to advert in this connection, to the debts which many of the States of the Union have contracted abroad, and under which they continue to labor. That indebtedness amounts to a sum not less than \$200,000,000, and which has been retributed to them, for the most part, in works of internal improvement, which are destined to prove of vast importance in ultimately advancing their prosperity and wealth. For the debts thus contracted, the States are alone responsible. I can do no more than express the belief that each State will feel itself bound by every consideration of honor, as well as of interest, to meet its engagements with punctuality. The failure, however, of any one State to do so, should in no degree affect the credit of the rest; and the foreign capitalists will have as just cause to experience alarm as to all other State stocks, because

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*The President's Message.*

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any one or more of the States may neglect to provide with punctuality the means of redeeming their engagements. Even such States, should there be any, considering the great rapidity with which their resources are developing themselves, will not fail to have the means, at no very distant day, to redeem their obligations to the uttermost farthing; nor will I doubt but that in view of that honorable conduct which has evermore governed the States, and the people of this Union, they will each and all resort to every legitimate expedient, before they will forego a faithful compliance with their obligations.

From the report of the Secretary of War, and other reports accompanying it, you will be informed of the progress which has been made in the fortifications designed for the protection of our principal cities, roadsteads, and inland frontier, during the present year; together with their true state and condition. They will be prosecuted to completion with all the expedition which the means placed by Congress at the disposal of the Executive will allow.

I recommend particularly to your consideration, that portion of the Secretary's report which proposes the establishment of a chain of military posts from Council Bluffs to some point on the Pacific Ocean, within our limits. The benefit thereby destined to accrue to our citizens engaged in the fur trade, over that wilderness region, added to the importance of cultivating friendly relations with the savage tribes inhabiting it, and at the same time of giving protection to our frontier settlements, and of establishing the means of safe intercourse between the American settlements at the mouth of the Columbia River, and those on this side of the Rocky Mountains, would seem to suggest the importance of carrying into effect the recommendations upon this head with as little delay as may be practicable.

The report of the Secretary of the Navy will place you in possession of the present condition of that important arm of the national defence. Every effort will be made to add to its efficiency, and I cannot too strongly urge upon you liberal appropriations to that branch of the public service. Inducements of the weightiest character exist for the adoption of this course of policy. Our extended and otherwise exposed maritime frontier, calls for protection, to the furnishing of which an efficient naval force is indispensable. We look to no foreign conquests, nor do we propose to enter into competition with any other nation for supremacy on the ocean—but it is due not only to the honor, but to the security of the people of the United States, that no nation should be permitted to invade our waters at pleasure, and subject our towns and villages to conflagration or pillage. Economy in all branches of the public service, is due from all the public agents to the people—but parsimony alone would suggest the withholding of the necessary means for the protection of our domestic firesides from invasion, and our national honor from disgrace. I would most earnestly recommend to Congress to abstain from all appropriations for objects not absolutely necessary; but I take upon myself, without a moment of hesitancy, all the responsibility of recommending the increase and prompt equipment of that gallant Navy, which has lighted up every sea with its victories, and spread an imperishable glory over the country.

The report of the Postmaster General will claim your particular attention, not only because of the valuable suggestions which it contains, but because of the great importance which, at all times, attaches to

that interesting branch of the public service. The increased expense of transporting the mail along the principal routes, necessarily claims the public attention, and has awakened a corresponding solicitude on the part of the Government. The transmission of the mail must keep pace with those facilities of intercommunication which are every day becoming greater through the building of railroads, and the application of steam power—but it cannot be disguised that, in order to do so, the Post Office Department is subjected to heavy exactions. The lines of communication between distant parts of the Union, are, to a great extent, occupied by railroads, which, in the nature of things, possess a complete monopoly, and the Department is therefore liable to heavy and unreasonable charges. This evil is destined to great increase in future, and some timely measure may become necessary to guard against it.

I feel it my duty to bring under your consideration a practice which has grown up in the administration of the Government, and which, I am deeply convinced, ought to be corrected. I allude to the exercise of the power, which usage, rather than reason, has vested in the President, of removing incumbents from office, in order to substitute others more in favor with the dominant party. My own conduct, in this respect, has been governed by a conscientious purpose to exercise the removing power, only in cases of unfaithfulness or inability, or in those in which its exercise appeared necessary, in order to discountenance and suppress that spirit of active partisanship on the part of holders of office, which not only withdraws them from the steady and impartial discharge of their official duties, but exerts an undue and injurious influence over elections, and degrades the character of the Government itself, inasmuch as it exhibits the Chief Magistrate as being a party, through its agents, in the secret plots or open workings of political parties.

In respect to the exercise of this power, nothing should be left to discretion, which may safely be regulated by law; and it is of high importance to restrain, as far as possible, the stimulus of personal interests in public elections. Considering the great increase which has been made in public offices, in the last quarter of a century, and the probability of further increase, we incur the hazard of witnessing violent political contests, directed too often to the single object of retaining office, by those who are in, or obtaining it, by those who are out. Under the influence of these convictions, I shall cordially concur in any constitutional measures for regulating, and by regulating, restraining, the power of removal.

I suggest for your consideration the propriety of making, without further delay, some specific application of the funds derived under the will of Mr. Smithson of England, for the diffusion of knowledge, and which have, heretofore, been vested in public stocks, until such time as Congress should think proper to give them a specific direction. Nor will you, I feel confident, permit any abatement of the principal of the legacy to be made, should it turn out that the stocks, in which the investments have been made, have undergone a depreciation.

In conclusion, I commend to your care the interests of this District, for which you are the exclusive legislators. Considering that this city is the residence of the Government, and, for a large part of the year, of Congress, and considering, also, the great cost of the public buildings, and the propriety of affording them at all times careful protection, it



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*Message from the President.*

[27TH CONG.]

seems not unreasonable that Congress should contribute towards the expenses of an efficient police.

JOHN TYLER.

WASHINGTON, December 7, 1841.

The Message having been read,

Mr. MANGUM moved that the Message and accompanying documents be laid on the table, and printed.

Agreed to.

Mr. SMITH, of Indiana, moved that 1,500 copies of the Message with the accompanying documents, and 8,500 without the documents, be printed for the use of the Senate.

Mr. BENTON observed, that he could not reconcile it to himself to let the resolution pass without making a few remarks on that part of the Message which related to the new Fiscal agent. Looking at that feature of it, as read, he perceived that the President gave an outline of the plan, leaving it to the Secretary of the Treasury to furnish the details in his report. He (Mr. BENTON) apprehended that nothing in those details could reconcile him to the project, or in any manner meet his approbation. There were two main points presented in the plan, to which he never could agree—both being wholly unconstitutional and dangerous. One was that of emitting bills of credit, or issuing a treasury currency. Congress had no constitutional authority to issue paper money, or emit Federal bills of credit; and the other feature is to authorize this Government to deal in exchanges. The proposition to issue bills of credit, when under consideration at the formation of the constitution, was struck out, with the express view of making this Government a hard-money Government—not capable of recognizing any other than a specie currency—a currency of gold and silver—a currency known and valued, and equally understood by every one. But here is a proposition to do what was expressly refused to be allowed by the framers of the constitution—to exercise a power not only not granted to Congress, but a power expressly denied. The next proposition is to authorize the Federal Government to deal in and regulate exchanges, and to furnish exchanges to merchants. This is a new invention—a modern idea of the power of this Government, invented by Mr. Biddle, to help out a National Bank. Much as General Hamilton was in favor of paper money, he never went the length of recommending Government bills of credit or dealings in exchange by the United States Treasury. The fathers of the church, Macon, and John Randolph, and others, called this a hard-money Government: they objected to bank paper; but here is Government paper, and that goes beyond Hamilton, much as he was in favor of the paper system. The whole scheme making this Government a regulator of exchange—a dealer in exchange—a furnisher of exchange—is absurd, unconstitutional, and pernicious, and is a new thing under the sun.

Now he (Mr. BENTON) objected to this Government becoming a seller of exchanges to the country, for which there is no more authority than there is for its furnishing transportation of goods or country produce. There is not a word in the constitution to authorize it—not a word to be found justifying the assumption. The word exchange is not in the constitution. What does this measure propose? Congress is called upon to establish a Board with agencies, for the purpose of furnishing the country with exchanges. Why should not Congress be also called on to furnish that portion of the community engaged in commerce, with facilities for transporting merchandise? The proposition is one of the most pernicious nature, and such as must lead to the most dangerous consequences if adopted.

The British debt began in the time of Sir Robert Walpole, on issues of exchequer bills—by which system the British nation has been cheated, and plunged irretrievably in debt to the amount of nine hundred millions of pounds. The proposition that the Government should become the issuer of exchequer notes, is one borrowed from the system introduced in England by Sir Robert Walpole, whose Whig administration was nothing but a high Tory administration of Queen Anne. He (Mr. BENTON) had much to say on this subject, but this was not the time for entering at large into it. This perhaps was not the proper occasion to say more; nor would it, he (Mr. BENTON) considered, be treating the President of the United States with proper respect to enter upon a premature discussion. He (Mr. BENTON) could not, however, in justice to himself, allow this resolution to pass without stating his objections to two such obnoxious features of the proposed fiscalty, looking, as he did, upon the whole thing as one calculated to destroy the whole structure of the Government, to change it from the hard-money it was intended to be, to the paper-money Government it was intended not to be, and to mix it up with trade, which no one ever dreamed of. He (Mr. BENTON) had on another occasion stated that this Administration would go back not only to the Federal times of '98, but to the times of Sir Robert Walpole and Queen Anne, and the evidence is now before us.

He (Mr. BENTON) had only said a few words on this occasion, because he could not let the proposition to sanction bills of credit go without taking the very earliest opportunity of expressing his disapprobation, and denouncing a system calculated to produce the same results which had raised the unfunded debt of Great Britain from twenty-one millions to nine hundred millions of pounds. He should avail himself of the first appropriate opportunity to maintain the ground he had assumed as to the identity of this policy with that of Walpole, by argument and references, that this plan of the President's was utterly unconstitutional and dangerous—part borrowed from the sys-

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tem of English Exchequer issues, and part from Mr. Biddle's scheme of making the Federal Government an exchange dealer—though Mr. Biddle made the Government act indirectly through a board of bank directors, and this makes it act directly through a Board of Treasury Directors and their agents.

This is the first time that a formal proposition has been made to change our hard-money Government (as it was intended to be) into a paper-money machine; and it is the first time that there has been a proposal to mix it up with trade and commerce, by making it a furnisher of exchanges, a bank of deposit, a furnisher of paper currency, and an imitator of the old confederation in its continental bills and a copyist of the English Exchequer system. Being the first time these unconstitutional and pernicious schemes were formally presented to Congress, he felt it to be his duty to disclose his opposition to them at once. He would soon speak more fully.

The question was then taken on the motion to print an extra number of copies of the Message and documents, and agreed to.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 29.

*French Spoiliations.*

Mr. CUSHING, from the Committee on Foreign Affairs, made a report upon the petition for indemnity for spoiliations prior to 1800, accompanied by a bill to provide for the satisfaction of claims due to certain American citizens for spoiliations committed on their commerce prior to the 31st day of July, 1801; which bill was read the first and second time, and committed to the Committee of the whole House on the state of the Union.

*Bankrupt Law.*

Mr. HOPKINS asked leave to introduce a bill, of which he had, he said, heretofore given notice, to wit, a bill to repeal the law of the last session providing for the establishment of a Uniform System of Bankruptcy.

The SPEAKER said the motion was not now in order; and the bill could only be introduced at this time by general consent.

Mr. CLARK rose and objected.

So the bill was not introduced.

*The Public Treasury.*

Mr. FILLMORE rose, and inquired of the Speaker whether the committees had been called through?

The SPEAKER replied in the affirmative.

Mr. FILLMORE. Then, Mr. Speaker, I am instructed by the Committee of Ways and Means to ask the unanimous consent of the House to go into Committee of the Whole on the state of the Union, for the purpose of taking up the bill amendatory of the Loan bill.

In relation to the necessity of this step, I beg leave to state that I have information from

the Secretary of the Treasury, communicated this morning, that there is, at the present moment, a deficiency in the Treasury to the amount of two hundred and sixty thousand dollars. That sum must be immediately provided, or our Government must be disgraced.

It is under this strong pressure of necessity that I appeal to the House to grant permission now to take up and consider the bill.

Mr. EASTMAN objected, and claimed his right to the floor on the unfinished business of yesterday.

*The Board of Exchequer.*

Mr. STANLY desired, he said, to inquire of the chairman of the Select Committee on the Currency, when a report from that committee might be expected. The nation felt a deep interest in the matter, and so did the House.

Mr. CUSHING. I cannot give the gentleman a definite answer; but the House would facilitate the action of the committee by reference of the President's Message, which has not yet been done. [Laughter.]

Mr. STANLY said that the committee had the "plan" referred to them, and on that a report was expected.

Here the conversation ended.

## IN SENATE.

MONDAY, January 3, 1842.

*The Vice Presidency.*

Mr. PRESTON submitted a resolution, which was adopted, instructing the Committee on the Judiciary to inquire whether any further legislation be necessary, in case of the removal, death, or resignation of the Vice President of the United States, or of the President of the Senate, and to report by bill or otherwise.

THURSDAY, January 13.

*Board of Exchequer.*

Mr. BENTON being entitled to the floor, discussed the plan at length, as follows:

Mr. PRESIDENT: I have said on several occasions since the present Administration was formed, that we had gone back, not merely to the Federal times of General Hamilton, but far beyond them—to the Whig times of Sir Robert Walpole, and the Tory times of Queen Anna. When I have said this I did not mean it for sarcasm, or for insult, or to annoy the feelings of those who had just gotten into power. My aim was far higher and nobler—that of showing the retrograde movement which our Government was making, and waking up the country to a sense of its dangers before it was too late; and to the conviction of the necessity of arresting that movement, and recovering the ground which we have lost. History is said to be philosophy teaching by example; and I wish to have the benefit of the instructive voice of this great teacher in the lamentable circumstances in which we are now placed.

The Administration of Sir Robert Walpole

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was the fountain-head of British woes. All the measures which have led to the present condition of the British empire, and have given it more debt and taxes, more paupers, and more human misery than ever before was collected under the sway of one sceptre: all these date from the reigns of the first and second George; when this minister, for twenty-five years, was the ruler of Parliament by means of the moneyed interest, and the ruler of kings by beating the Tories at their own game of non-resistance and passive obedience to the royal will. The Tories ruled under Queen Anne: they went for church and state, and rested for support on the landed interest. The Whigs came into power with the accession of George the First: they went for bank and state; and rested for support on the moneyed interest. Sir Robert Walpole was the head of the Whig party; and immediately became the favorite of that monarch, and afterwards of his successor; and, availing himself during that long period of power of all the resources of genius, unimpeded by the obstacle of principles, he succeeded in impressing his own image upon the age in which he lived, and giving to the Government policy the direction which it has followed ever since. Morals, politics, public and private pursuits, all received the impress of the Minister's genius; and what that genius produced I will now proceed to show: I read from Smollett's continuation of Hume:

[Here Mr. B. read from Smollett's continuation of Hume.]

Such was the picture of Great Britain in the time of Sir Robert Walpole; and such was the natural fruit of a stockjobbing Government, composed of Bank and State, resting for support on heartless corporations, and lending the wealth and credit of the country to the interested schemes of projectors and adventurers. Such was the picture of Great Britain during this period; and who would not mistake it (leaving out names and dates) for a description of our own times, in our own America, during the existence of the Bank of the United States, and the thousand affiliated institutions which grew up under its protection during its long reign of power and corruption? But, to proceed with English history:

Among the corporations brought into existence by Sir Robert Walpole, or moulded by him in the form which they have since worn, were the South Sea Company, the East India Company, the Bank of England, the Royal Insurance Company, the London Insurance Company, the Charitable Corporation, and a multitude of others, besides the exchequer and funding systems, which were the machines for smuggling debts and taxes upon the people and saddling them on posterity. All these schemes were brought forward under the pretext of paying the debts of the nation, relieving the distresses of the people, assisting the poor, encouraging agriculture, commerce, and manufactures, and saving the nation from the burthen of loans and taxes. Such were the

pretexts for all the schemes. They were generally conceived by low and crafty adventurers, adopted by the minister, carried through Parliament by bribery and corruption, flourished their day, and ended in ruin and disgrace.

Corporation credit was ruined in Great Britain, by the explosion of banks and companies—by the bursting of bubbles—by the detection of their crimes—and by the crowning catastrophe of the South Sea scheme: it is equally ruined with us, and by the same means, and by the crowning villany of the Bank of the United States. Bank and State can no longer go together in our America: the Government can no longer repose upon corporations. This is the case with us in 1841; and it was the case with Great Britain in 1790. The South Sea explosion dissolved (for a long time) the connection there: the explosion of the Bank of the United States has dissolved it here. New schemes become indispensable; and in both countries the same alternative is adopted. Having exhausted corporation credit in England, the Walpole Whigs had recourse to Government credit, and established a Board of Exchequer, to strike Government paper. In like manner, the Webster Whigs, having exhausted corporation credit with us, have recourse to Government credit to supply its place; and send us a plan for a Federal Exchequer, copied with such fidelity of imitation from the British original, that the description of one seems to be the description of the other. Of course I speak of the Exchequer feature of the plan alone. For as to all the rest of our Cabinet scheme—its banking and brokerage conceptions—its exchange and deposit operations—its three dollar issues in paper for one dollar specie in hand—its miserable one-half of one per centum on its Change-Alley transactions—its Cheapside underbiddings of rival bankers and brokers:—as to all these follies, (for they do not amount to the dignity of errors,) they are not copied from any part of the British Exchequer system, or any other system that I ever heard of, but are the uncontested and unrivalled production of our own American genius.

I repeat it: our Administration stands to-day where the British Government stood one hundred and twenty years ago. Corporation credit exhausted, public credit is resorted to; and the machinery of an exchequer of issues becomes the instrument of cheating and plundering the people in both countries. The British invent: we copy: and the copy proves the scholar to be worthy of the master. Here is the British act. Let us read some parts of it: and recognize in its design, its structure, its object, its provisions, and its machinery, the true original of this plan, (the exchequer part,) which the united wisdom of our Administration has sent down to us for our acceptance and ratification. I read, not from the separate and detached acts of the first and second George, but from the revised and perfected system as corrected and perpetuated in the reign of George the Third.

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*Board of Exchequer.*

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[Here Mr. B. read several extracts.]

Here, resumed Mr. B., is the original of our exchequer scheme! here is the original of which our united Administration has unanimously sent down a faithful copy. In all that relates to the exchequer—its design—operation—and mode of action—they are one and the same thing! identically the same. The design of both is to substitute Government credit for corporation credit—to strike paper money for the use of the Government—to make this paper a currency as well as a means of raising loans—to cover up and hide national debt—to avoid present taxes in order to increase them an hundred fold in future—to throw the burthens of the present day upon a future day; and to load posterity with our debts in addition to their own. The design of both is the same, and the structure of both is the same. The English board consists of the Lord Treasurer for the time being, and three commissioners to be appointed by the king; our board is to consist of the Secretary of the Treasury and the Treasurer for the time being, and three commissioners to be appointed by the President and Senate. The English board is to superintend and direct the form and mode of preparing and issuing the exchequer bills; our board is to do the same by our Treasury notes. The English bills are to be receivable in all payments to the public; our Treasury notes are to be received in like manner in all Federal payments. The English board appoints paymasters, clerks, and officers to assist them in the work of the exchequer; ours is to appoint agents in the States, with officers and clerks to assist them in the same work. The English paymasters are to give bonds, and to be subject to inspection; our agents are to do and submit to the same. The English exchequer bills are to serve for a currency; and for that purpose the board may contract with persons, bodies politic and corporate, to take and circulate them; our board is to do the same thing through its agencies in the States and Territories. The English exchequer bills are to be exchanged for ready money; ours are to be exchanged in the same manner. In short, the plans are the same, one copied from the other, identical in design, in structure, and in mode of operation; and wherein they differ, (as they do in some details,) the advantage is on the side of the British. For example: 1. The British pay interest on their bills, and raise the interest when necessary to sustain them in the market. Ours are to pay no interest, and will depreciate from the day they issue. 2. The British cancel and destroy their bills when once paid: we are to reissue ours, like common bank notes, until worn out with use. 3. The British make no small bills; none less than £100 sterling, (\$500:) we begin with five dollars, like the old Continentals; and, like them, will soon be down to one dollar, and to a shilling. 4. The British Board could issue no bill except as specially authorized from time to time by act

of Parliament: ours is to keep out a perpetual issue of fifteen millions; thus creating a perpetual debt to that amount. 5. The British Board was to have no deposit of Government stock: ours are to have a deposit of five millions, to be converted into money when needed, and to constitute another permanent debt to that amount. 6. The British gave a true title to their Exchequer act: we give a false one to ours. They entitled theirs, "An act for regulating the issuing and paying off of Exchequer bills:" we entitle ours, "A bill amendatory of the several acts establishing the Treasury Department." In these and a few other particulars the two Exchequers differ; but in all the essential features—design—structure—operation—they are the same.

Having shown that our proposed Exchequer was a copy of the British system, and that we are having recourse to it under the same circumstances: that in both countries it is a transit from corporation credit deceased, to Government credit, which is to bear the brunt of new follies and new extravagances: having shown this, I next propose to show the manner in which this Exchequer system has worked in England, that, from its workings there, we may judge of its workings here. This is readily done. Some dates and figures will accomplish the task, and enlighten our understandings on a point so important. I say some dates and figures will do it. Thus: at the commencement of this system in England the annual taxes were 5 millions sterling: they are now 50 millions. The public debt was then 40 millions: it is now 900 millions, the unfunded items included. The interest and management of the debt were then 1½ millions: they are now 80 millions.

Here Mr. B. exhibited a book—the index to the British Statutes at large—containing a reference to all the issues of Exchequer bills from the last year of the reign of George the First, (1727,) to the fourth year of the reign of her present Majesty, (1840.) He showed the amounts issued under each reign, and the parallel growth of the national debt, until these issues exceeded a thousand millions, and the debt, after all payments made upon it, is still near one thousand millions. Mr. B. here pointed out the annual issues under each reign, and then the totals for each reign, showing that the issues were small and far between in the beginning—large and close together in the conclusion—and that it was now going on faster than ever.

The following was the table of the issues under each reign:

Geo. 1, in 1727, (one year.)	£870,000
Geo. 2, from 1727 to 1760, (33 years.)	11,500,000
Geo. 3, from 1760 to 1820, (60 years.)	542,500,000
Geo. 4, from 1820 to 1831, (11 years.)	220,000,000
Will. 4, from 1831 to 1837, (6 years.)	160,000,000
Victoria 1, from 1837 to 1840, (4 years.)	160,000,000

£1,140,370,000

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Near twelve hundred millions of pounds sterling in less than a century and a quarter—we may say three-quarters of a century, for the great mass of the issues have taken place since the beginning of the reign of George the Third. The first issue was the third of a million; under George the Second, the average annual issue was the third of a million; under George the Third, the annual average was nine millions; under George the Fourth, it was thirty millions; under William the Fourth, twenty-three millions; and under Victoria, it is twenty-one millions. Such is the progress of the system—such the danger of commencing the issue of paper money to supply the wants of a Government.

This, continued Mr. B., is the fruit of the exchequer issues in England, and it shows both the rapid growth and dangerous perversion of such issues. The first bills of this kind ever issued in that country were under William the Third, commonly called the Prince of Orange, in the year 1696. They were issued to supply the place temporarily of the coin, which was all called in to be recoined under the superintendence of Sir Isaac Newton. The first bills were put out by king William only for this temporary purpose, and were issued as low as ten pounds and five pounds sterling. It was not until more than thirty years afterwards, and when corporation credit had failed, that Sir Robert Walpole revived the idea of these bills, and perverted them into a currency, and into instruments for raising money for the service of the Government. His practice was to issue these bills to supply present wants, instead of laying taxes or making a fair and open loan. When due, a new issue took up the old issue; and when the quantity would become great, the whole were funded: that is to say, saddled upon posterity. The fruit of the system is seen in the 900,000,000 of debt which Great Britain still owes, after all the payments made upon it. The amount is enormous, overwhelming, appalling; such as never could have been created under any system of taxes or loans. In the nature of things, Government expenditure has its limits when it has to proceed upon taxation or borrowing. Taxes have their limits in the capacity of the people to pay: loans have their limit in the capacity of men to lend; and both have their restraints in the responsibility and publicity of the operation. Taxes cannot be laid without exciting the inquiry of the people. Loans cannot be made without their demanding wherefore. Money, i. e. gold and silver, cannot be obtained, but in limited and reasonable amounts, and all these restraints impose limits upon the amount of Government expenditure and Government debt. Not so with the noiseless, insidious, boundless progress of debt and expenditure upon the issue of Government paper! The silent working of the press is unheard by the people. Whether it is one million or twenty millions that is struck, is all one to them. When the time comes for payment, the

silent operation of the funding system succeeds to the silent operation of the printing press; and thus extravagant expenditures go on—a mountain of debt grows up—devouring interest accrues—and the whole is thrown upon posterity, to crush succeeding ages, after demoralizing the age which contracted it.

The British debt is the fruit of the exchequer system in Great Britain, the same that we are now urged to adopt, and under the same circumstances; and frightful as is its amount, that is only one branch—one part of the fruit—of the iniquitous and nefarious system. Other parts remain to be stated, and the first that I name is, that a large part of this enormous debt is wholly false and fictitious! McCulloch states two-fifths to be fictitious; other writers say more; but his authority is the highest, and I prefer to go by it. In his commercial dictionary, now on my table, under the word "*funds*," he shows the means by which a stock for £100 would be granted when only £60 or £70 were paid for it; and goes on to say:

"In consequence of this practice, the principal of the debt now existing amounts to nearly two-fifths more than the amount actually advanced by the tender."

So that the English people are bound for two-fifths more of capital, and pay two-fifths more of annual interest, on account of their debt, than they ever received. Two-fifths of 900,000,000 is 360,000,000; and two-fifths of 30,000,000 is 12,000,000; so that here is fictitious debt to the amount of \$1,600,000,000 of our money, drawing \$60,000,000 of interest, for which the people of England never received a cent; and into which they were juggled and cheated by the frauds and villainies of the exchequer and funding systems! those systems which we are now unanimously invited by our Administration to adopt. The next fruit of this system is that of the kind of money, as it was called, which was considered lent, and which goes to make up the three-fifths of the debt admitted to have been received; about the one-half of it was received in depreciated paper during the long bank suspension which took place from 1797 to 1823, and during which time the depreciation sunk as low as 80 per centum. Here, then, is another deduction of near one-third to be taken off the one-half of the three-fifths which is counted as having been advanced by the lenders. Finally, another bitter drop is found in this cup of indebtedness, that the lenders were mostly jobbers and gamblers in stocks, without a shilling of their own to go upon, and who by the tricks of the system became the creditors of the Government for millions. These gentry would puff the stocks which they had received—sell them at some advance—and then lend the Government a part of its own money. These are the lenders—these the receivers of thirty millions sterling of taxes—these the scrip nobility who cast the hereditary nobles into the shade, and who hold

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tributary to themselves all the property and all the productive industry of the British empire. And this is the state of things which our Administration now proposes for our imitation.

This is the way the exchequer and funding system have worked in England; and let no one say they will not work in the same manner in our own country. The system is the same in all countries, and will work alike everywhere. Go into it, and we shall have every fruit of the system which the English people now have; and of this most of our young States, and of our cities, and corporations, which have gone into the borrowing business, upon their bonds, are now living examples. Their bonds were their exchequer bills. They used them profusely, extravagantly, madly, as all paper credit is used. Their bonds were sold under par, though the discount was usually hid by a trick: pay was often received in depreciated paper. Sharpers frequently made the purchase who had nothing to pay but a part of the proceeds of the same bonds when sold. And thus the States and cities are bound for debts which are in a great degree fictitious, and are bound to lenders who had nothing to lend; and such are the frauds of the system which is presented to us, and must be our fate, if we go into the exchequer system.

I have shown the effect of an Exchequer of issues in Great Britain to strike paper money for a currency, and as a substitute for loans and taxes. I have shown that this system, adopted by Sir Robert Walpole upon the failure of corporation credit, has been the means of smuggling a mountain load of debt upon the British people, two-fifths of which is fraudulent and fictitious: that it has made the great body of the people tributaries to a handful of fundholders, most of whom, without owning a shilling, were enabled by the frauds of the paper system and the funding system, to lend millions to the Government. I have shown that this system, thus ruinous in England, was the resort of a crafty minister to substitute Government credit for the exhausted credit of the moneyed corporations, and the exploded bubbles; and I have shown that the Exchequer plan now presented to us by our Administration, is a faithful copy of the English original. I have shown all this; and now the question is, shall we adopt this copy? This is the question; and the consideration of it implies the humiliating conclusion, that we have forgot that we have a constitution, and we have gone back to the worst era of English history—to times of the South Sea bubble, to take lessons in the science of political economy. Sir, we have a constitution! and if there was any thing better established than another, at the time of its adoption, it was that the new Government was a hard-money Government, made by hard-money men, who had seen and felt the evils of Government paper, and who intended forever to cut off the new Government from the use of that dangerous expedient. The question was made in the

Convention (for there was a small paper money party in that body) and solemnly decided that the Government should not emit paper money, bills of credit, or paper currency of any kind. It appears from the history of the Convention, that the first draft of the constitution contained a paper clause, and that it stood in connection with the power to raise money, thus: "To borrow money, and emit bills, on the credit of the United States." When this clause came up for consideration, Mr. Gouverneur Morris moved to strike out the words, "and emit bills;" and was seconded by Mr. Pierce Butler. "Mr. Madison thought it sufficient to prevent them from being made a tender." "Mr. Ellsworth thought this a favorable moment to shut and bar the door against paper money. The mischiefs of the various experiments which had been made were now fresh in the public mind, and had excited the disgust of all the respectable part of America. By withholding the power from the new Government, more friends of influence would be gained to it than by almost any thing else. Paper money can in no case be necessary. Give the Government credit, and other resources will offer. The power may do harm, never good." Mr. Wilson said: "It will have a most salutary influence on the credit of the United States to remove the possibility of paper money. This expedient can never succeed while its mischiefs are remembered; and as long as it can be resorted to, it will be a bar to other resources." "Mr. Butler remarked that paper was a legal tender in no country in Europe. He was urgent for disarming the Government of such a power." "Mr. Read thought the words, if not struck out, would be as alarming as the mark of the beast in Revelations." "Mr. Langton had rather reject the whole plan than retain the three words, 'and emit bills.'" A few members spoke in favor of retaining the clause; but on taking the vote, the sense of the convention was almost unanimously against it. Nine States voted for striking out: two for retaining. They were: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, for striking out. The two States of Maryland and New Jersey alone voted for the retention of the clause. This is the history of the case from Mr. Madison's report; and to this he has added this note:

"The vote in the affirmative by Virginia was occasioned by the acquiescence of Mr. Madison, who became satisfied that striking out the words would not disable the Government from the use of public notes, as far as they could be safe and proper; and would only cut off the pretext for a paper currency, and particularly for making the bills a tender, either for public or private debts."

The Senator from Virginia (Mr. Rives) referred to this note some days ago, as if it qualified, or explained away the decision of the convention; but no such thing. The vote of the convention was nearly unanimous without Mr.

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Madison. His joining the majority did not alter the decision; there were enough hard-money men without him; and his note to the debate shows that he was opposed to a paper-money currency. The note shows that he considered the rejection of the clause had cut off the pretext for a paper currency; and I therefore claim the benefit of his authority in behalf of the constitution, and against this plan of exchequer issues which the Administration has sent down to us.

If there were a thousand constitutional provisions in favor of paper money, I should still be against it—against the thing itself, *per se* and *propter se*—on account of its own inherent baseness and vice. But the constitution is against it—clearly so upon its face; upon its history; upon its early practice; upon its uniform interpretation. The universal expression at the time of its adoption was, that the new Government was a hard-money Government, made by hard-money men, and that it was to save the country from the curse of paper money. This was the universal language—this the universal sentiment; and this hard-money character of the new Government was one of the great recommendations in its favor, and one of the chief inducements to its adoption. All the early action of the Government conformed to this idea—all its early legislation was as true to hard-money as the needle is to the pole. The very first act of Congress for the collection of duties on imports, passed in the first year of the new Government's existence, and enacted by the very men who had framed the constitution—this first act required those duties to be paid "in gold and silver coin only;" the word *only*, which is a contraction for the old English *only*, being added to cut off the possibility of an intrusion, or an injection of a particle of paper money into the Treasury of the United States. The first act for the sale of public lands required them to be paid for in "*specie*"—the specie circular of 1836 was only the enforcement of that act; and the hard-money clause in the Independent Treasury was a revival of these two original and fundamental revenue laws. Such were the early legislative interpretations of the constitution by the men who made it.

The facility with which any industrious country can supply itself with a hard-money currency—can lift itself out of the mud and mire of depreciated paper, and mount the high and clean road of gold and silver: the ease with which any industrious people can do this, has been sufficiently proved in our own country, and in many others. We saw it in the ease with which the Jackson policy gained us eighty millions of dollars in seven years. We saw it at the close of the Revolution, when the paper money sunk to nothing, ceased to circulate, and specie reappeared as by magic. I have asked the venerable Mr. MACON how long it was after paper stopped, before specie reappeared at that period of our history? his an-

swer was: No time at all. As soon as one stopped, the other came. We have seen it in England at the end of the long bank suspension, which terminated in 1828. Parliament allowed the Bank four years to prepare for resumption: at the end of two years—half the time—she reported herself ready—having in that short space accumulated a mass of twenty millions sterling (one hundred millions of dollars) in gold; and, above all, we have seen it in France, where the Great Emperor restored the currency in the short space of six years, from the lowest degree of debasement to the highest point of brilliancy. On becoming First Consul in 1800, he found nothing but depreciated assignats in the country—in six years his immortal campaigns—Austerlitz, Jena, Friedland—all the expenses of his imperial court, surpassing in splendor that of the Romans, and rivalling the almost fabulous magnificence of the Caliphs of Bagdad—all his internal improvements—all his docks, forts, and ships—all the commerce of his forty millions of subjects—all these were carried on by gold and silver alone; and from having the basest currency in the world, France, in six years, had near the best, and still retains it. These instances show how easy it is for any country that pleases to supply itself with an ample currency of gold and silver—how easy it will be for us to complete our supplies—that in six or seven years we could saturate the land with specie! and yet we have a formal Cabinet proposition to set up a manufactory of paper money!

The Senator from Mississippi, (Mr. WALKER,) who sits on my right, has just visited the island of Ouba, and has told us what he has seen there—a pure metallic currency of gold—twelve millions of dollars of it to a population of one million souls, half slaves—not a particle of paper money—prices of labor and property higher than in the United States—industry active—commerce flourishing: a foreign trade of twenty-four millions of dollars, which, compared to population and territory, is so much greater than ours, that it would require ours to be four hundred and twenty-five millions to be equal to it! This is what the Senator from Mississippi tells us that he has seen; and would to God that we had all seen it. Would to God that the whole American Congress had seen it. Devoutly do I wish that it was the custom now, as in ancient times, for legislators to examine the institutions of other countries before they altered those of their own country. The Solons and Lycurguses of antiquity would visit Egypt, and Crete, and other renowned places in the East, before they would touch the laws of Sparta or Athens; in like manner I should rejoice to see our legislators visit the hard-money countries—Holland, France, Cuba—before they went further with paper-money schemes in our own country. The Cabinet, I think, should be actually put upon such a voyage. After what they have done, I think they

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should be shipped on a visit to the lands of hard money. And although it might seem strange, under our form of Government, thus to travel our President and Cabinet, yet I must be permitted to say that I can find constitutional authority for doing so, just as soon as they can find constitutional authority for sending such a scheme of finance and currency as they have spread before us.

Holland and Ouba have the best currencies in the world: it is gold and the commercial bill of exchange, with small silver for change, and not a particle of bank paper. France has the next best: It is gold, with the commercial bill of exchange, much silver, and not a bank note below 500 francs, (say \$100.) And here let me do justice to the wisdom and firmness of the present King of the French. The Bank of France lately resolved to reduce the minimum size of its notes to 200 francs, (say \$40.) The king gave them notice that if they did it, the Government would consider it an injury to the currency, and would take steps to correct the movement. The Bank rescinded its resolution; and Louis Philippe, in that single act, (to say nothing of others,) showed himself to be a patriot King, worthy of every good man's praise, and of every legislator's imitation. The United States have the basest currency in the world: It is paper, down to cents; and that paper supplied by irresponsible corporations, which exercise the privilege of paying, or not, just as it suits their interest or politics. We have the basest currency upon the face of the earth; but it will not remain so. Reform is at hand; probably from the mild operation of law; if not, certainly from the strong arm of ruin. God has prescribed morality, law, order, government, for the conduct of human affairs; and he will not permit these to be too long outraged and trampled under foot. The day of vindicating the outraged law and order of our country, is at hand; and its dawn is now visible. The excess of bank enormity will cure itself under the decrees of Providence; and the cure will be more complete and perfect than any that could come from the hands of man.

It may seem paradoxical, but it is true, that there is no abundant currency, low interest, and facility of loans, except in hard-money countries: paper makes scarcity, high interest, usury, extortion, and difficulty of borrowing. Ignorance supposes that to make money plenty, you must have paper: this is pure nonsense. Paper drives away all specie, and then dies itself for want of specie; and leaves the country penniless until it can recruit.

This, sir, is my answer to the demand for a national currency, meaning a currency of paper money issued under the authority of a law enacted, or of a charter granted by Congress. I am against such a currency, but am ready to recommence all the hard-money measures for the restoration of the currency of the constitution, and to stop the curse of depreciated notes

and shinplasters from local banks and individuals, by applying a bankrupt law to bankrupt banks, and placing a tax upon every bank note, which the small and weak will not be able to carry.

How capricious, Mr. President, are the ways of fortune! how differently she treats different men, and even the same thing coming from different men! Of this we have a signal instance in the case now before us. We, the American Senate, are now gravely employed in the consideration of a plan to establish a Federal Exchequer, sent down to us by the Administration, when the same plan, submitted to us a few years ago by a respectable citizen of the South, received not the slightest attention; and was suffered to sink down lifeless from the hands of the author. What thus fell dead from the hands of a respectable citizen in the South, is now picked up by half a dozen gentlemen at the west end of Pennsylvania avenue, adopted for their own, and sent down to us for the most grave and weighty consideration of the two Houses of Congress. Coming from their hands, we respectfully entertain what, before, we disdained: and so uncertain is fame—so capricious is fortune—that many Senators now present, will hear, for the first time, that this plan on which we are called to deliberate, as a fresh conception of our Cabinet, is actually an old copyright invention of a Southern citizen! Strange as this may be, it is no less true than strange; and, as the maxim—*every man his own*—let every one have his own—is as fair in its application to the mental productions as it is to the fruit of any other industry, so I proceed to vindicate the title of the true author of this plan of a Federal Exchequer, by showing the original plan itself. Here it is, said Mr. B., holding up a printed pamphlet in his hand; here it is! and I will read some extracts from it, to show the identity of the two propositions. And, first, the title-page. "All the world is a title-page." So says William Shakspeare, as the Senator from Pennsylvania (Mr. BUCHANAN) reminded us the other day; the said William Shakspeare meaning thereby that every thing in the world is falsely labelled. Without going into the question of the general truth of that *inuendo*, I must be permitted to say of the pamphlet from which I propose to read, that it is most truly entitled—its title a true label; and that, in this particular, as well as in others, it possesses a marked advantage over the cabinet edition of the same work. The title is this:

"A plan for the establishment, by act of Congress, not a coining mint, for there is one already, but a General Print Mint at Washington city, for the emission of paper money to the amount, perhaps, of two hundred millions of dollars; to be founded on a rock, and upon a credit of ten years, at six per centum, which will be productive of a rise of property immediately of 10, 15, perhaps 20 per centum; and perhaps more. By John H. Sargent, Esq., Attorney and Counsellor at Law. Charleston: Printed



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by Edward C. Council, No. 1, Green street, anno Domini, 1837." "Entered in the office of the Clerk of the District of South Carolina, and copyright secured according to law."

This is the title: and I admit, Mr. President, that it differs from the title which our Cabinet production bears; but I must be permitted to say that it is only the difference between a false and a true label upon the same box of sundries. Mr. Sargent entitles his plan "A General Print Mint" to strike two hundred millions of paper money for a national currency; and in so doing he truly entitles it, and gives us a clear perception of its design. Our Cabinet, on the contrary, entitle theirs "A bill to amend the several acts establishing the Treasury Department," which is a mystification and bamboozlement, there being no such acts to which it can apply as an amendment, nor any thing in the title which can give the least idea of the design of the plan. In this the titles differ—one enlightens us, and the other mystifies and bamboozles us—and in this difference we see the difference between the confidence of the two parties in the merits of what they propose; one exhibiting his wares fairly, and calling every thing by its true name, and showing his confidence in success by fair means—the other concealing theirs under a fictitious appellation, and showing their belief that it can only be passed by being smuggled through under the disguise of a false character.

[Mr. B. then continued the comparison of the two plans, and closed thus:]

It was a noble answer which the old French merchants gave to the great minister, Colbert, when he proposed to ameliorate their trade by some Government regulation. Colbert was no projector, but the wise and virtuous minister of a great King. The old merchants knew the respect which was due to his well-meant offer; but they knew also that all success in their business depended upon themselves; and gave that memorable answer which history preserves for the instruction of generations. *Laissez nous faire!*—(Let us alone)—was their wise reply! This was their reply: and would to God that our Government could learn it, and practise upon it, and confine itself to its own business and its own duties. The care of our foreign relations, and the concerns of the Union—peace at home and abroad, foreign and domestic trade, and light taxation, comprise the sum of Federal duties. This Federal Government was not created to act upon individuals—not created to manage private concerns—not created to guide the hand of private industry; and just so long as it has been engaged in that business, every thing has been going from bad to worse. Let it cease this vain intermeddling with what does not belong to it: let it give us honorable peace with foreign nations—subdue the revolt of the moneyed corporations—reduce the insurgent banks to subordination to law and to government—give us fair trade—hard money—economy in the Administration—domestic security

of person and territory: let it do this, and our people will do the rest, and will be the richest and happiest of the world.

## HOUSE OF REPRESENTATIVES.

SATURDAY, JANUARY 15.

## Bankrupt Bill.

Mr. BARNARD said: I desire to state to the House very distinctly, that I consider the Committee on the Judiciary, and myself as a member of that committee, as having been instructed several days ago, (since Friday last Mr. B. was understood to say,) under the peremptory order of this House, to bring in a bill repealing the bankrupt law *instantly*. I have held myself ready to make that report at any instant that the House has been in session since that time. My opinion certainly is, that the instructions just passed by the House add nothing to the force of the previous instructions. I hold myself ready to report that bill at any moment when the House will hear it, and I will now report it if the House will hear it.

Mr. HOWARD, of Michigan, rose and objected, insisting that the call of the States for petitions should be proceeded with.

Mr. SAUNDERS here rose and said, that he understood the gentleman from New York to say that he felt himself bound by the former decision of the House to make a report; that he proposed to do so forthwith, and that he now asked leave—

[Cries "Not at all; not at all; he does not ask leave."]

Mr. SAUNDERS proceeded to say since that time I have been directed to make a report in obedience to the order passed this day, and I now send the report to the table in obedience to that order.

Mr. S. here sent a report to the Clerk's table by the hands of a messenger boy.

[Very great disorder and confusion, lasting for some time, and rendering any attempt to hear what was said almost impossible.]

The first thing the Reporter heard after this, was a declaration by the SPEAKER that there was only one way of bringing this confusion to an end. The Chair would take the responsibility of doing it; and that was by calling upon the Chairman of the Committee on the Judiciary to make a report.

Mr. BARNARD said he had never yielded the floor, and that he was ready to make a report when in order.

The SPEAKER said this was a new case, and not without difficulty. Let the Chair decide either way, an appeal would be taken from the decision, and the House would settle the matter as it pleased, in despite of any existing rules of the House. If the Chair decided that the report should not be made, an appeal would be taken from the decision, and a majority could overrule it. So it would be if the Speaker decided the other way. It was not very material, therefore, which way the Chair decided. And,

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under all the circumstances of the case, inasmuch as the House had now again peremptorily ordered the committee to report a bill in compliance with the former order, (under which the Chair then thought the report could not be received, and which opinion the House sustained,) and inasmuch as the matter now assumed another form, and the language of the order was that the report should be made *instantly*, the Chair thought it his duty to call on the committee to make a report.

Mr. CUSHING. I appeal from the decision.

The SPEAKER. I expected it.

[Much confusion in the Hall, and cries to "order."]

Mr. FILLMORE. I have once witnessed a scene in this House of even more violence than that which has taken place this day. I recollect when an effort was made—

[The voice of Mr. FILLMORE was here lost amid the tumultuous cries of "order."]

Mr. FILLMORE. I recollect when—

Mr. WISE. I call the gentleman to order.

Mr. SPRIGG. I call *you* to order, sir.

Mr. WISE read the 112th rule, which is as follows:

"All questions relating to the priority of business to be acted on shall be decided without debate."

Mr. FILLMORE. I am speaking on an appeal; not on a point of priority.

The SPEAKER. The question is upon the appeal; and debate upon that appeal is in order unless the previous question is moved.

Mr. FILLMORE proceeded. I say I have witnessed once a scene of violence here when perhaps the House was as much excited as it is now. I refer to the odious New Jersey case, when an effort was made on the part of the majority—

Mr. CHAPMAN rose and called Mr. FILLMORE to order.

The SPEAKER said that the gentleman from New York must confine himself strictly to the subject-matter of the appeal.

Mr. FILLMORE. Have I not a right to show that there is a precedent bearing on this very case?

The SPEAKER. Certainly.

Mr. FILLMORE said he would then use milder language in relation to that precedent, if it was desired, although the country had long since pronounced its judgment upon it.

He desired to say in reference to that case, that it would be recollected by those who were members of this House, that a majority ordered a committee to report forthwith; that the committee, in obedience to that order, presented a report at the bar of the House, and asked leave to present it at the table. Objection was made; and, notwithstanding the strong party violence then pervading this hall, there was yet found independence and integrity enough here to sustain the rules of the House, and to prevent that report being made.

[Great sensation in the House.]

Mr. F. proceeded. The report was retain-

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ed in the possession of the committee three, four, or five days, before the committee was called in its order to make a report; and, till they were so called, it could not be made. The last report which was made in that case, just before the adjournment, was also attempted to be made at various times. It was suggested at that time that it was a privileged question, having reference to the seats of members, although no effort was made to break down the rules; and although the Speaker decided that it was not, yet an appeal was taken, the decision overruled, and the report made, but made upon the ground that it was a privileged question, and not upon the ground that it was within the rules of the House to make it out of order.

Was it necessary, he would ask, in a case like this that this extraordinary proceeding should be had, and that the rules of the House should be broken down to reach the object? He knew that the Bankrupt bill was doomed in this House. He regretted that it was necessary that resort should be had to the Opposition here, by those who made this movement, to accomplish it in such great haste. He regretted that the House should suffer its rules thus to be broken down and trampled upon when the object was within the rules; and he called upon the members on all sides of this House to come forward now and sustain its rules and its character. If this decision of the Chair was to be sustained, all that was wanting when there was a wish to break down the rules, would be to introduce a resolution, to pass it by a majority, to make it imperative to act forthwith; and thus the whole order of business would be changed. Was the House prepared for this? We had passed through more violent scenes without doing it, and he called upon the House to pause before doing it now.

Mr. WELLER demanded the previous question on the appeal.

Mr. BORDON moved that the House do now adjourn.

Mr. PROFFIT asked the yeas and nays; which were ordered, and, being taken, were—yeas 87, nays 107.

So the House refused to adjourn.

The question recurring on the demand for the previous question,

The SPEAKER asked the indulgence of the House while he gave the reasons for his decision.

The SPEAKER said he was aware that this was a new question, notwithstanding the authority which had been introduced by the gentleman from New York. Indeed, it would be seen in a moment that that authority did not meet the case. The question was not free from difficulty; but the gentleman from New York must see that the two propositions were not analogous. In the present case a petition was presented, and an order—an undisputed order—had been passed, by which a majority of the House had given directions to the Committee on the Judiciary to report; and that report

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*Death of the Hon. Davis Dimmock, Jr.*

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was tendered by the chairman of that committee.

[Cries of "Oh no; not at all; not at all."]

The SPEAKER continued. By one of the members of the committee then; it was unimportant which. Such was the condition of this case.

In the New Jersey case there was no tender; no announcement on the day of the order that the committee was ready to report. No call upon the committee was made: but, immediately upon the order being passed, a motion to adjourn was carried. In the present case, the Chair would have had infinitely more difficulty if a day, or an adjournment, had intervened. But now, as the case stood, the House in session, no business having intervened, with an imperative demand upon the House to carry out an undisputed order, the Chair could not decide otherwise than as it had done. The result of such a decision would be, to render nugatory the order which the House itself had given—to deprive it of the power to carry out its own instructions.

Mr. O. H. WILLIAMS moved that the appeal be laid on the table.

The SPEAKER stated the question to be on laying the appeal on the table.

Mr. FILLMORE asked the yeas and nays on that motion.

Mr. WINTHROP was understood to inquire if it would be competent to raise a new appeal, should this be laid on the table?

The SPEAKER replied no.

The question on laying the appeal on the table was then taken, and decided in the affirmative.

The bill was read as follows:

A Bill to repeal the act establishing a uniform system of bankruptcy.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved the 19th day of August, 1841, be, and the same is hereby, repealed.*

The bill having been read,

Mr. WINTHROP rose and objected to any question being taken upon it, and insisted on his point of order.

Mr. HOPKINS insisted that the question was (objection having been made), Shall this bill be rejected? And on that question he demanded the previous question.

The SPEAKER said there was a great deal of enthusiasm in this matter for the House, but none for the Chair; so rapidly did questions of a delicate character arise one on the other.

The SPEAKER here read the order, or instructions.

This order, the SPEAKER said, was limited in its terms, and could not be exceeded in its spirit. The order commanded the committee to report, but there it stopped. The report had been made, and the gentleman from Massachu-

setts now raised the question of order whether any thing further could be done with the bill at present, the order having been discharged. The gentleman from Virginia (Mr. HOPKINS) had submitted that the next question was, "Shall the bill be rejected?" The Chair had no doubt about that. If the point of order had not intervened, or if the bill was now regularly up for action, that would certainly be the next question; but the question which now arose upon the point of order of the gentleman from Massachusetts was this: "Was it in order, consistently with the authority by which this bill was brought before the House, to press it further than the reading at this time?" In the judgment of the Speaker it was not.

Mr. WISE appealed from this decision.

Mr. J. C. CLARK inquired if the appeal was debatable?

The SPEAKER answered affirmatively.

Mr. WISE expressed his sentiments on the point of order, and moved the previous question on the appeal.

Mr. EVERETT, remarking that the gentleman from Virginia (Mr. WISE) had made an argument on the point of order, and then moved the previous question, was understood to ask Mr. W. to withdraw the demand.

The demand was not withdrawn.

Mr. EVERETT moved to lay the appeal on the table.

Mr. WELLER asked the yeas and nays.

Mr. ANDREWS, of Kentucky, moved that the House do now adjourn.

Mr. PROFFIT asked the yeas and nays.

Mr. UNDERWOOD, (addressing the Speaker:) If we adjourn now, will this appeal and bill be the first question on Monday morning?

The SPEAKER (after a moment's reflection) said: The Chair thinks that the appeal would be the first thing in order on Monday morning, coming up as unfinished business.

Mr. UNDERWOOD. Then, if that is the case, we will adjourn.

The question on the motion to adjourn was then taken, and decided in the affirmative—yeas 105, nays 102.

So, at half-past 5 o'clock, the House adjourned.

IN SENATE.

WEDNESDAY, January 19.

*Death of the Hon. Davis Dimmock, Jr.*

Mr. BUCHANAN said he rose for a purpose far different from that of participating in this debate. The House of Representatives had officially announced to the Senate the death of the Hon. DAVIS DIMMOCK, Jr., a member of that body from the State of Pennsylvania; and, although it might not have been the practice, he owed it to his own feelings, as well as to the respect which was so justly due to the character of the deceased, to ask that the Senate

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Death of the Hon. Davis Dimmock, Jr.

[JANUARY, 1842.]

should adjourn, as a testimonial of respect for his memory.

The deceased, observed Mr. BUCHANAN, acted well his part in all the relations of life. He was an indulgent husband, a kind father, and a sincere friend. He was a man, the quiet influence of whose example tended to make the society by which he was surrounded, both wiser and better.

His judgment was excellent; and, under its dictates, his course through life was steady, honest, and consistent. He lived respected and beloved wherever he was known; and, so far as I have ever heard, he had not a personal enemy. He came to the extra session in the enjoyment of his accustomed health, and with the full confidence of his constituents, and here contracted the disease which has proved mortal. There is often but a step between the highest earthly honors to which ambition aspires, and the grave. He died at his residence, in Montrose, Pennsylvania; and I consider it fortunate that he died at home, surrounded by the endearments of the domestic circle, and was not called away to meet his God from the bustling and busy struggles of political life, in which we are all here involved. I now move that the Senate adjourn.

This motion being unanimously adopted,  
The Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 19.

*Death of the Hon. Davis Dimmock, Jr.*

Mr. BIDLACK rose and said:

Mr. SPEAKER: It has become my painful duty to announce to this House the mournful intelligence, just received, of the death of one of my colleagues and friends.

The Hon. DAVIS DIMMOCK, Jr., late a member of this House, departed this life on the 18th of the present month, at his residence in Montrose, in the county of Susquehanna.

Mr. DIMMOCK appeared for the first time, and took his seat in the councils of the nation, at the last extra session of Congress. From the retiring and unassuming nature of his habits, and the short space of time allotted him to mingle in these busy scenes, it is quite probable his acquaintance with the members was not very extensive. But what is of more consequence, and what is more to his honor and his credit, it may be said with strict verity, "those who knew him best, loved him most." His mild deportment and sterling worth endeared him to those who met him, as it had not failed to render him popular with those who sent him here. At the same time that he was open, frank, and manly in the declaration of his sentiments, and in his adherence to them, he was bland and forbearing in his conduct towards those who differed with him.

Mr. Speaker, with such a man I am proud to have had an acquaintance, and to be able to call

him my friend. That acquaintance enables me to say, the amiable and unobtrusive character of his disposition, and the urbanity of his manners, were not more remarkable than the sound and discriminating nature of his energetic mind.

This acquaintance enables me also to add, that in all the different relations of life, he was governed by a noble sense of honor and moral obligation. Whether he was likewise influenced by still higher considerations, connected with an adherence to the Christian religion, I am unable to say. I do not know that he professed any mode of faith; but, if he did, it must have been a correct one; for "his can't be wrong whose life is in the right."

It is a most beautiful illustration of his character, that upon inquiry among those who associated with him most while here, it will be found the impression is very general, that he was not only an honorable and moral, but a pious man, although no declaration to that effect can be recollected to have escaped his lips. His "actions spoke louder than words." But, sir, I must not forget that I came to "*bury*," not to "*praise*" him." Permit me, however, to indulge in one further reflection. The deceased was, comparatively speaking, a young man. He took his seat among us at the extra session in all the buoyancy of hope, with the confidence of youth and a vigorous constitution. But disease soon fastened upon him, and withdrew him from his attendance here. He, however, recovered sufficiently to be enabled to return to the bosom of his family and his friends, where, after much suffering, he has at last returned to the "bosom of his mother earth." He is now no more! His place here, as well as his own fireside, is vacant! His children are fatherless! His wife is disconsolate! Nothing that we can say—nothing that we can do, will calm the troubled waters that overflow her spirits or soothe the anguish of her bosom.

Nevertheless, sir, we have a duty to perform—a duty, the observance of which I hope never to see neglected. For, however fleeting and transitory may be the honors paid to the memory of the dead, and however worthless and unavailing to the spirits of the departed, they have a deep and abiding influence upon the conduct of the living. I will not enlarge upon this topic. There may be those among us who are heedless of public opinion while we live; but there are none who would like to be forgotten, or remembered with disrespect, when we are dead.

This feeling should be cultivated. It is this laudable desire to be remembered with tokens of regard and esteem, that actuates to deeds of patriotism and usefulness. Those in public life should endeavor to deserve public demonstrations of regret, while the most humble individual may be cheered and encouraged to deeds of noble daring, or private virtues, by the hope that it may induce some fond heart to

"Come at evening hour, to shed  
The tear of memory o'er his narrow bed."

JANUARY, 1842.]

Treasury Note Bill.

[27TH CONG.]

With these views, and these feelings, I send to the Chair the following resolutions :

*Resolved*, That this House has learned with feelings of deep sensibility the intelligence of the decease of the Hon. DAVIS DIMMOCK, jr., late a member of this Congress, and as an evidence of the sympathy which the members entertain, and hereby tender to his surviving relatives and personal friends, they will wear crape on the left arm for thirty days.

*Resolved*, Also, as a further mark of respect for the memory of the deceased, this House do now adjourn.

The resolutions were unanimously adopted ; and

The House adjourned.

#### IN SENATE.

FRIDAY, January 21.

#### Treasury Note Bill.

The Senate then proceeded to the consideration of the Treasury Note bill. The question being, "Shall the bill be ordered to be engrossed for a third reading?"

Mr. BENTON rose, and offered the following additional sections to the bill, viz :

*And be it further enacted*, That from and after the last day of December, one thousand eight hundred and forty-two, there shall be laid and collected throughout the United States, its Territories, and the District of Columbia, a tax on bank notes, and all other paper put in circulation as money, by corporations, individuals, or companies, as follows :

On each note or piece of paper so put into circulation, promising or ordering the payment of money, or other thing, or creating a liability on the part of the issuer for such payment, the sum of ten cents for the year eighteen hundred and forty-two ; to be increased ten cents per annum, until the whole tax amounts to — cents on each note or piece of paper so put into circulation.

*And be it further enacted*, That every description of paper put into circulation by corporations, companies, or individuals, for the payment of money, or other thing, which shall be transferable by delivery and without the endorsement of each passer thereof, and without being subject to the laws which apply to inland bills of exchange, shall be held and deemed to be circulating paper within the meaning of this act, and shall be subject to the tax hereby imposed.

*And be it further enacted*, That every corporation, company, or individual, who shall issue notes or papers of the foregoing descriptions, shall be subject to the tax aforesaid, and within thirty days after the last day of September, in each and every year, shall make out and transmit to the Secretary of the Treasury, and the marshal of the district in which the said issue is made, a statement, verified by affidavit, showing the average quarterly number of notes or paper in circulation for the first three quarters of the year, and the estimated average number of such notes or paper for the remaining quarter ; the average of which four quarters shall be held and taken to be the annual number of the notes or other circulating paper in circulation ; the said statement to be made out according to a form to be obtained from the Secretary of the Treasury, through the marshal of the district ;

on failure to make which return, the said corporation, or individual, shall be liable to a double tax, and to a fine of fifty thousand dollars.

*And be it further enacted*, That immediately on receiving said returns, the Secretary of the Treasury shall cause the tax accruing thereon to be collected by the marshal, and duly accounted for and paid over by him.

*And be it further enacted*, That five per centum shall be allowed to each marshal, for his compensation in collecting and paying over said moneys.

*And be it further enacted*, That additional and separate security shall be required from each marshal for the faithful discharge of his duties under this act.

*And be it further enacted*, That all double taxes incurred under this act, for a default in not making the returns of the circulation, shall be computed by the marshal of the district and the Secretary of the Treasury, according to the reputed capital employed or circulation issued, by the delinquent party ; and all fines under this act shall be recoverable by action of debt, and shall be divided between the informers and the law officers of the United States prosecuting the same.

Mr. BENTON supported his amendment in a brief speech. He urged a return to the good old practice—good with Governments as well as individuals—to provide for the payment of a debt whenever it was created ; and considered this a very appropriate manner for providing for this present new debt, as it was taxing paper to pay for paper. The amendment proposed to tax all paper put into circulation, be it large or small, and coming from what source it might—a bank or a shoe-black. The tax was proposed to begin at ten cents on each note, or piece of paper, so put out, and to be increased ten cents annually till the whole tax amounted to — cents. He did not fix the maximum. His object was to tax all alike, and take a sum which the large notes could pay easily, and the small ones would sink under. His object was twofold : first, to make the money corporations pay a little tax in these taxing times, when nothing escapes taxation but banks. The mode of collecting it was easy—it was merely for the banks, companies, corporations, and individuals engaged in the issue of notes or tickets, to give in the annual average number of their notes or tickets, like a farmer gives in the number of his cattle or horses, or acres of land—the list to be given in to the United States Marshal for the district. The tax to begin at ten cents on each note or ticket, and to be increased ten cents annually, until it amounted to — cents on each. The second object was to operate the suppression, gradually, of small bank-notes and shinplasters. A uniform tax of a given amount would accomplish this. To lay a uniform tax of a certain amount on all bank-notes and shinplasters, would be like putting a pound weight upon the backs of all animals. The large and noble animals, such as horses, could carry it without feeling it ; the vermin would be killed under it. A flea would never hop again with this pound weight on its back. So of the large notes and the small ones. The large would car-

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*The Bankrupt Law—Repeal.*

[JANUARY, 1842.]

ry the tax easily, and ought to carry it; the small ones would sink under it, and ought to sink. Taken in conjunction with a Bankrupt act against banks, which was now becoming the general doctrine, and this tax would complete the remedies against the evils of paper money. They were remedies of different kinds, but uncurrent; the one *preventive*, the other *curation*. The Bankrupt act would cure the evil after it happened; the tax would almost prevent it from happening; and would save the small-dealing part of the community from all loss—that class which now bears nearly all the loss. Mr. B. showed that bank-notes were taxed in England, and had been taxed in the United States, and that this was a most appropriate time to tax them again.

Mr. CLAY called for the yeas and nays, which were ordered.

Mr. CALHOUN said that he had not intended to say a word on this amendment, till the yeas and nays were ordered; but, being called on to record his vote, he would, in a few words, assign his reasons for voting against it. If the mover intended his proposition as the commencement of a system, all he would say, under that aspect of the subject, was, that he had anticipated, but for a short time, what would be forced on those in power, if the scheme of extravagant expenditures, which formed a part of their system of measures, should be carried out. He would tell them that, as they were going on, loans and Treasury notes would soon fail them, and that it would be impossible for them to extort from commerce the means of meeting the demands on the Treasury.

But he did not understand that the mover, in proposing the amendment, intended it exclusively as a measure of revenue. One, at least, of his objects, as avowed by himself, is so to arrange the proposed tax on notes as to suppress those of a small denomination. According to his (Mr. C.'s) opinion, this would be a dangerous and unconstitutional use of the taxing power. He held that all the powers delegated by the constitution were trust powers, and that, like all other powers of like description, they were limited in their application to the nature and object of the trust. To extend them beyond, to other objects, would be a perversion of the power—the most dangerous of all the modes of violating the constitution, because the most insidious, and easily and safely perpetrated.

Entertaining this view, he held that, as the exclusive object of the taxing power was revenue, to use it for any other purpose—as, in this case, to suppress a certain description of bank-notes—was a perversion of the power, and, of course, not warranted by the constitution. It was, in fact, to change the taxing into a penal power—two powers, however alike in form and appearance, that were wholly different in their nature and intention. The object of the penal power is to put down, destroy, and suppress that against which it is directed; it is directly

hostile to it: while, on the contrary, the taxing power, although it may have to some extent the same effect, does not will it; and, so far from seeking that suppression or distinction of its object, that would be fatal to its real design, revenue; just, as in this case, the suppression of the small notes would be a loss of the revenue from that source.

Mr. BENTON, at the urgent appeal of Mr. KING, withdrew his amendment, to permit the Treasury Note bill to proceed; and pledged himself to be as true as the needle to the pole in offering the amendment to the first revenue bill that came up; and that would be very soon under this tax-laying Administration.

The question was then taken, and carried without a division, on ordering the bill to be engrossed for a third reading.

TUESDAY, JANUARY 25.

*The Bankrupt Law—Repeal.*

On motion of Mr. BERRIEN the Senate proceeded to consider, as in Committee of the Whole, the bill of the House of Representatives to repeal the Bankrupt law.

Mr. BERRIEN occupied the floor during the remainder of the day, in opposition to the repeal of the law. He remarked that his opinions as to the constitutionality, expediency, and justice of the law for the relief of the bankrupts, had not changed; but that, so far as time and reflection had had any influence with him, they had only tended to impress him with the belief that the vote he gave at the last extra session was correct. He maintained that so far as there was any manifestation of the popular will as to the propriety of the passage of that law, it was in favor of it. The Legislature of the State he in part represented, had expressed opinions adverse to that law; which had been communicated to him. He did not concur with those opinions, and did not feel justified, from his sense of what was due to a suffering people, to vote for the bill to repeal it. He spoke at some length on the bad effect of a vacillating course of legislation, such as would be exhibited if this Congress at this session reversed their will as expressed at the last session; and argued that it would afford to the enemies of free institutions material on which to found arguments against the salutary and practical operations of free Government. They had deliberately adopted a measure of great public policy, at the instance of a vast multitude of the people of the United States; and he thought if they changed their own act of legislation before it was permitted to go into operation, such course ought to deprive them of the confidence of the American people. The law, he argued, was correct in principle, and in detail was as free from imperfections as any plan that could be devised by the wisdom and ingenuity of Congress, before they had the lights of experience, as would be developed by the prac-

tical operations of the law. He did not believe the law was so imperfect as its enemies had alleged. It was simple in its details, and was not encumbered by the complicated machinery of the bankrupt laws which had not heretofore met the approbation of the people. The law, as it exists on the statute, could be safely permitted to go into operation, without speculating on the amendments thought necessary to make it practicable, and then they would have the experience of its operations to guide them in the amendments they were now speculating about.

He spoke at some length to show that the law was practicable, and contended that it was because of its practicability that it was so objectionable. It was opposed by its enemies, because it was susceptible of such practical operations, that it would defeat the machinations of those who were anxious for its repeal. It was objectionable, not because it was a bankrupt law, but because it was a leading measure of the Whig party, and one of its measures for the relief of the country, for which the extra session was called; all of which measures, it was now contended by some of those who opposed them, the people had rejected as injurious to their interests, and must be repealed. He did not, however, so understand the language of the country. It was but the wishes and opinions of those who felt that all those measures must be undone, or the two vetoes of the Whig President will have lost all their charms. He then spoke at some length on the constitutional power of Congress to make a Bankrupt law to operate on others than traders, in the common acceptance of that term; and contended that, so far as the origin and history of the practice of the law of England, from which he borrowed it, had any bearing upon the intention of the framers of the constitution, or the construction which they intended should be given that instrument, it conclusively established the right in Congress to pass a law to operate on all persons, without regard to their occupation or pursuits in life.

THURSDAY, January 27.

*The Bankrupt Law—Repeal.*

Mr. BAYARD addressed the Senate for upwards of an hour, investigating the whole ground of argument upon which the friends of the Bankrupt law advocated its constitutionality and expediency. He first dwelt upon the exaggeration of the assumption that there were five hundred thousand bankrupts in the United States, calling for, and entitled to relief. He showed from the returns of the late census, that the whole amount of persons engaged in trade and manufacturing business did not exceed nine hundred thousand, and that it was an utter impossibility that more than one in a hundred of these could be bankrupt. The probability was that the whole of the persons in the United States,

properly coming within the provisions of the system of bankruptcy contemplated by the framers of the constitution, in giving the power to the General Government to pass laws on the subject—did not exceed nine thousand. He showed that this being an agricultural population, must necessarily have fewer subjects for the operation of bankrupt laws than England, which is emphatically and essentially a nation of shopkeepers and manufacturers. Yet, in reviewing the history of bankruptcy in England, from the years 1700 to 1808—a period of one hundred and eight years—it had been found that the aggregate number of bankrupts in that country during more than one hundred years was but eleven thousand.

Mr. CHOATE, in continuation of the debate, said he could assure his friends that he would not keep them long from the vote upon the bill before the Senate, or the Senator from Missouri from submitting what he had to say in conclusion of the discussion. He would take about three minutes of the time of the Senate in presenting three reasons in favor of the retrospective part of the law. He sustained the retrospective character of the bill, because he represented a creditor State, as he had been reminded by the Senator from Georgia, (Mr. BENNETT.) Massachusetts was in favor of the law. The Legislature of Massachusetts had passed resolutions in favor of it. \$30,000,000 of property had been represented here in one petition from Boston opposed to the repeal of the law. This property was employed at Mexico, up and down the father of waters, and in almost every place of the country, and far beyond its borders. Other memorials of a like character had also been presented, and why? Massachusetts was a creditor State, and there was due to that State \$15,000,000 at this time in the Southwest; and there were at this and other sections of the Union more than ten millions due her over and above the amount of the indebtedness of individuals in his State.

Mr. C. also said that he voted also for the retrospective law, because it was a moral right of Government to pass such a law. If the bill did, as was said by the Senator from Delaware, sponge out debts, he admitted that it was a weighty objection, and would be an effective one, if the objection was not borne down by ten thousand superior claims. Admirable and beautiful as he admitted the law, and anxious as he was (to use the language of Edmund Burke) to see it "carried into the brazen tablets of every system of jurisprudence in the world," yet he would not vote for the bill if these and all other objections were not fully overcome by the virtues of the bill. The practice of the whole world did not forbid, nor did sound ethics forbid, the enactment of such a law. What would the creditor gain, he would ask, by leading the debtor round the world, as under the old Scotch law, with the habiliments of bankruptcy upon him? Nothing. By setting one captive free, he made two men where be-

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*The Treasury Note Bill.*

[JANUARY, 1842.]

fore there was but one, and two blades of grass to grow where but one grew before.

It was well and beautifully said by Judge Johnson, of South Carolina, that a part of public duty was to relieve humanity. More than this was done in the passage of this bill. Besides, we had the power to do this, to pass a retrospective law, and he would say, that there never was a system in which the retrospective power was not given. More than this. It was our hand that struck these men down, and our hand might be as beneficently, as benevolently, employed in raising them up.

It was a "Federal Whig measure," said the Senator from Missouri, (Mr. BENTON.) He thought it a measure that absorbed and swallowed up party distinctions. In Boston, at the Capitol, the people had assembled night after night. The people there rose and fell like the billows of the sea, throwing out their voice in eloquent appeals that this bill might remain the law of the land. It was, he admitted, a relief and a humane measure, and passed to set the debtor free; but let no man, be he never so good a lawyer, or so severe a moralist, say he could not vote for this law. He rejoiced to say a word in behalf of, and for such a measure as this, and had blessed God at the opportunity to do so. For himself and for others to hear, upon the approaching 1st of February, the meek and silver voices of freemen swelling the jubilee of the captive set free, would be the consummation of an event not only devoutly wished, but never to be forgotten.

Mr. BENTON, after some prefatory remarks, observed that, with the closest attention he had been able to give to the arguments of those who opposed the repeal of the Bankrupt law, he had not discovered that one of the eighteen objections he had on a former day urged against the law, had been answered. Of these eighteen objections not one had been attempted to be answered, because they were unanswerable. They would remain so; but he would now confine himself to only two of those objections—one, that the law is, in its primary and initiatory provisions, wholly and solely for the relief of the debtor. It is not a bankrupt law. It is a vast insolvent law, the object of which is, the abolition of debt, at the will and pleasure of the debtor, and without regard to the wishes of the creditor, or the consequences so far as his rights are concerned. All its provisions and enactments have for their object and end, the abolition of contracts of debt. All the rest was mere mockery. His next objection was as to time and place. The law gives the debtor his own choice of time and place. He may profess himself a bankrupt, when he pleases—when he has something to pay, or when he has spent the last cent. He may wait till he has wasted all the substance of his creditors, or he may not, just as he chooses; for the law is entirely for his convenience, and not for the protection of his creditors. He may go where he pleases—to the most remote limits of this Union, to

become a bankrupt—where his creditors will not incur the expense of following him or contesting his discharge, and where he may give notice, in compliance with the law, by a letter dropped in the post office, or by a publication in an obscure newspaper, that will never reach a creditor. He may do this, though the interests of men, women, children, idiots, lunatics, and persons resident beyond the seas, are concerned. The Senator from Georgia asks, "would you charge the future earnings of a man who has given up all his property, with the payment of his old debts?" He (Mr. B.) answered, yes, he would. He would never release him from his obligation till the debt was paid. What was the capital of the lawyer, the professional man, the mechanic, the laborer, the manufacturer, or any one else, living by the exercise of manual skill or mental faculties, but their industry and powers of productiveness? On the faith of these depended their credit; and they should be always liable to the discharge of their obligations. The very first memorial sent to Congress three years ago for such a system of bankruptcy as the law of last session—for this abolition of all debts—this general law of relief for all insolvents—and which system was advocated by a gentleman, then a Senator from Massachusetts, (Mr. WEBSTER)—not now in this body—was signed by a person (Mr. STILLWELL) who has received an appointment from this Administration as marshal of the Southern district of New York, in view of his own benefit; and was he (Mr. B.) now to be asked, if he would leave the six or nine thousand dollars a year salary of that beneficiary of office, liable to the claims of his creditors, and not let him take the benefit of this Bankrupt law, that he might live with his family in luxury and splendor? He would answer, yes; he would leave the salary of every such official, open to the claims of his creditors, just as he would the earnings of any contractor of debt, whose creditors had trusted him in faith of his capability of repayment.

At half-past three o'clock, Mr. BENTON, without having concluded, yielded to a motion to adjourn.

And the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, January 29.

#### *The Treasury Note Bill.*

When the bill was last before the House, Mr. FILLMORE had moved that the House concur in the amendments made thereto by the Senate.

And Mr. SPRIGG had moved that the bill and amendments be committed to the Committee of the Whole on the state of the Union.

Mr. FILLMORE desired to make a brief explanation in relation to the last amendment. It was now apparent that the House would not do any business on Monday. Almost a month had elapsed since the bill had been brought



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*Death of Senator Dixon.*

[27TH CONG.]

into this House under the extreme pressure of the immediate wants of the Treasury; and he should conceive himself culpable if he were to delay the action of the House for a moment. The first amendments pending were merely verbal, as he had said on a former occasion, and he hoped the vote would be taken.

Mr. STANLY rose and said he thought the House and country must be satisfied that too much valuable time had been already consumed in this debate. And now, without further preliminary remarks, in which he could indulge if he chose, he would move the previous question.

In answer to inquiries, the SPEAKER said that the effect of the previous question, (if sustained,) would be to cut off the motion to commit, and bring the House to a direct vote on the amendments of the Senate.

And the main question (being on concurring in the amendments of the Senate) was ordered to be now put.

And the two first amendments of the Senate (which are merely verbal) were concurred in.

And the question again recurring on concurring in the amendment of the Senate striking out the proviso of the House, that the amount of Treasury notes which might be issued under the authority of this act, should be deemed and taken in lieu of so much of the loan bill, &c.,

The yeas and nays were taken, and resulted as follows:

**YEAS.**—Messrs. Adams, Allen, Landaff W. Andrews, Sherlock J. Andrews, Arnold, Ayer, Baker, Barnard, Birdseye, Blair, Boardman, Briggs, Brockway, Milton Brown, Jeremiah Brown, Burnell, Calhoun, Thomas J. Campbell, Caruthers, Childs, Chittenden, John C. Clark, Staley N. Clarke, Cowen, Cranston, Cravens, Cushing, Garrett Davis, Deberry, John Edwards, Everett, Fessenden, Fillmore, Gamble, Gates, Gentry, Giddings, Patrick G. Goode, Graham, Granger, Green, Hall, Halsted, Henry, Hudson, Joseph R. Ingersoll, William W. Irwin, James, William Cost Johnson, Isaac D. Jones, J. P. Kennedy, Lawrence, Linn, Samson Mason, Mathiot, Mattocks, Maxwell, Maynard, Meriwether, Moore, Morgan, Morrow, Osborne, Pendleton, Pope, Powell, Ramsey, Benjamin Randall, Randolph, Rayner, Ridgway, Rodney, William Russell, James M. Russell, Saltonstall, Shepperd, Truman Smith, Stanley, Stokeley, Alexander H. H. Stuart, Summers, Taliaferro, John B. Thompson, Tillinghast, Toland, Tomlinson, Trumbull, Wallace, Warren, Washington, Edward D. White, Thomas W. Williams, Lewis Williams, Christopher H. Williams, Joseph L. Williams, Winthrop, Wise, Yorke, Augustus Young, and John Young—100.

**NAYS.**—Messrs. Arrington, Atherton, Beeson, Bidlack, Botta, Bowne, Boyd, Brewster, Aaron V. Brown, Charles Brown, Burke, S. H. Butler, William Butler, Green W. Caldwell, Patrick C. Caldwell, John Campbell, Cary, Casey, Chapman, Clifford, Clinton, Coles, Cross, Daniel, R. D. Davis, Dean, Doig, Eastman, John C. Edwards, Egbert, Ferris, John G. Floyd, Charles A. Floyd, Fornance, T. F. Foster, Gerry, Gilmer, Goggin, Gordon, Gustine, Gwin, Harris, John Hastings, Hays, Holmes, Hopkins, Houck, Houston, Hubard, Hunter, Jack, Keim, Andrew Kennedy, Lane, Lewis, Littlefield, Lowell, Abraham McClellan,

Robert McClellan, McKay, Mallory, Marchand, Alfred Marshall, John Thompson Mason, Mathews, Medill, Miller, Newhard, Owaley, Partridge, Payne, Pickens, Proffit, Reding, Reynolds, Rhett, Riggs, Roosevelt, Sanford, Saunders, Shaw, Shields, William Smith, Snyder, Sprigg, Steenrod, Stratton, John T. Stuart, Sumpter, Richard W. Thompson, Jacob Thompson, Turney, Underwood, Van Buren, Van Rensselaer, Watterson, Westbrook, James W. Williams, and Wood—100.

[A tie vote.]

The SPEAKER (with great promptness) voted in the affirmative, causing the vote to stand, yeas 101, nays 100.

So the amendment was concurred in.

IN SENATE.

MONDAY, January 31.

*Death of Senator Dixon.*

Immediately after the reading of the journal to-day, and the annunciation, by message from the House of Representatives, that that body had concurred in the amendment of the Senate to the Treasury Note bill,

Mr. SUMMERS, of Rhode Island, rose, and addressed the Senate as follows:

“Mr. PRESIDENT: My position imposes on me the painful duty to announce to the Senate the death of my colleague, the Hon. NATHAN F. DIXON, of Rhode Island. It took place on Saturday last, at noon.

I witnessed the event. It was accompanied by every consoling circumstance which can be mingled with such an affliction. It was attended by moderate, not excruciating pain; by the presence, to the last, of a clear and unclouded mind; and by a composure which enabled my deceased friend to breathe out his life as upon a pillow of rest. Having said this, my feelings would direct me to sit down, and silently commune with the emotions which this allusion to the event revives. Those who have recently witnessed such a scene can feel how impotent is language to describe it, or the emotions which it produces.

When we witness such a separation as death produces, the mind earnestly seeks to catch a gleam of that hope which the spirit has fled to; and the eye turns again to gaze on the desolate body which it has left behind. We silently say, what a wonderful transition! The intellect cannot comprehend its mysteries. And we come out among ourselves to speak of our loss, and to feel the distinct and individual admonition, that we must also follow.

The loss sustained by us in the event I have now brought to the notice of the Senate, is that of a benevolent, an honest man.

Col. Dixon was born at Plainfield, Connecticut, in December, 1774. He graduated at Rhode Island College in 1798-'9. He studied law in his native State, and came to Rhode Island, in 1803, to practise in the courts of that State, while he continued to pursue his pro-

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Death of Senator Dixon.

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fessional labors in his own. He was married soon after, and settled permanently in Rhode Island. He was a graduate of the college of that State, near which he had always lived, and where he had many acquaintances. He was attached to our people and our institutions. Ours, therefore, became his adopted State. Subsequent events show that his attachment was reciprocated, and that he not only adopted Rhode Island, but was also adopted by her people as a son of that State. In 1818 he was elected a member of the General Assembly of the State, and was elected by the same constituency at thirty-four successive elections. In October, 1838, he was elected by Rhode Island a member of the Senate of the United States for a term of six years, to commence the following March.

In the councils of the State he occupied a commanding position, won for himself by the amenity of his deportment, his great intelligence, and his sterling integrity. Of his career in this body, other Senators know more than I do, having but recently become his colleague. I had known him intimately for sixteen years, and have been highly gratified to perceive, by the positions assigned to him in the Senate, that his character was thus appreciated here, and especially to find, in the more intimate relations of confidential consultation, that he was eminently honored by his friends. Others may have occupied more elevated positions, but none more endearing ones. It was, however, in another sphere, and upon a another theatre of usefulness, that my colleague was most prominent. It was in his own neighborhood, among his numerous kindred, and in his own family, that the distinctive characteristics of his generous mind and his peculiar social qualities, have made their deepest impression; and it is in the large space he filled among them, that his departure will produce the most painful void. It is in the circles where the deepest impressions have been made by the life and influence of the deceased, that every consolation will be needed. To them his long life of usefulness, the position he had attained, his tranquil death, and the kind attention of the individual members of the Senate and its officers, attentions which leave no doubt of the general sympathy and respect of this body, will be presented and commended to their relief.

There will remain another duty for me to perform when I shall visit the bereaved family. This will be to detail to them that which has transpired in the confidential intercourse of private friendship, and in the sick room of the deceased; and it is of a character which I trust will prove a solace to them. It is in such a place that the virtues are tested. There, where a man sees in a shortened perspective the end of his journey, and discloses his reflections to his friends—where he finds the resources of intellect and philosophy give way, and his affections grasp the consolations and hopes

of our holy religion, which graciously invites us all to its beneficent provisions.

Mr. WOODBRIDGE rose next, and spoke as follows:

Mr. PRESIDENT: It seems to have been the custom from the foundation of this Government, when a member of this body has been suddenly wrested from it by the hand of death, that the Senate should render some appropriate tribute of respect to his memory. This custom is a good one, for it is founded in the best feelings of our nature. It is a good one, for it leads us to consider more seriously and more profoundly of the character and the object of the high duties we are sent here to perform. It is a good one, for in its very observance we are admonished of the shortness and uncertainty of our own lives, and of the comparative worthlessness of all selfish, all ephemeral considerations. It chastens our affections; it prepares us to look, alone, and with singleness of purpose, to the ulterior, future, and permanent good of the whole country.

Nor does the question fail of producing beneficial influences upon society beyond the limits of this Capitol; and especially in so far as such mark of respect to the memory of the deceased manifestly tends to strengthen the moral ties which bind the people of the State, from which he may have come, to the Government itself. In accordance, then, with a custom so sanctioned, resolutions have been prepared in the usual form, in relation to the memory of our friend, whose decease has just been announced to us.

I could have wished, sir, that it had been devolved upon some older member who had done more than I have done to build up the high character of the Senate, to have introduced them; for all with whom the deceased has been so long associated here would be alike ready, I am sure, to bear testimony to the soundness of his judgment, the equanimity of mind, and the singleness of heart, with which he always applied himself to his public duties here.

But it was my happiness, sir, to be an inmate of the same dwelling with the deceased during the last session, and again during this, and to have possessed, I hope, a good share of his friendly feeling. The State which gave him birth was my native State also; many of his early friends were mine, and mine were his.

From such considerations, it has been thought by others than myself, that it might be proper for me to present these resolutions; and this I do, sir, the more readily, because none can estimate more highly than I do that ingenuousness of nature, that honesty of purpose, and that elevated love of country, which I know so eminently distinguished the deceased, and which an intimate and active connection with public affairs for thirty years seems in *nowise* to have polluted or impaired.

I most respectfully then, present to you

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these resolutions, and move that they be adopted by the Senate.

*Resolved, unanimously,* That a committee be appointed to take order for superintending the funeral of the late Hon. NATHAN F. DIXON, which will take place to-morrow, at 12 o'clock, and that notice thereof be given to the House of Representatives.

The following Senators were appointed under the resolution, as the Committee of Arrangements, viz: Messrs. WOODBRIDGE, HUNTINGTON, WRIGHT, MANGUM, and BUCHANAN.

*Resolved, unanimously,* That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of NATHAN F. DIXON, deceased, late a Senator thereof, will go into mourning for one month, by the usual mode of wearing crape on the left arm.

*Resolved, unanimously,* That, as an additional mark of respect for the memory of the deceased, the Senate do now adjourn.

The resolutions having been unanimously adopted, the Senate accordingly adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, January 31.

*Death of Senator Dixon.*

A message was received from the Senate, by A. Dickinson, Esq., Secretary, informing the House that the Hon. NATHAN F. NIXON, Senator from the State of Rhode Island, had departed this life in this city on the 29th instant, and that his funeral would take place to-morrow, the 1st day of February, at 12 o'clock.

Mr. TILLINGHAST thereupon rose and said :

Mr. SPEAKER: It is with no common emotion that I rise to notice the sad communication which has now been sent to us by the honorable Senate. It tells us that a pure heart has ceased to throb—that a wise head has ceased to think—that a life of virtuous action, which had held on in unbroken health and usefulness to a green and hale old age, has now, in the midst of public toils, and in a station of well-won and well-worn honor, terminated—that the spirit which informed that life, and directed it to all that the cultivated instincts of a generous nature perceived, to be good, has been freed from the incumbrance of flesh, and entered upon the high and congenial destinies which are unfolded in the world of immortality. It tells us, too, that, while we occupy these halls, and tax our strongest faculties, and embark our loftiest virtues or our sternest passions in the agitating interests which seem to demand these efforts, there is an unseen Power amongst us, in whose presence all the powers of man are but as stubble and ashes—who has but silently to touch either the silvered crown of age or the firm and confident brow of earlier manhood, and, instantly, and equally, they fall—the eloquent tongue is mute and the heaving bosom is still.

Mr. Speaker, were it not that the notices

appropriate to these melancholy occasions must of necessity be brief, I would gladly speak of the deceased Senator (Colonel Dixon) more largely than I shall now allow myself to do. I would speak of him with the privilege of one who for nearly thirty years has enjoyed his friendship; who has been associated with him in professional and in legislative labors; and who, in any effort for the improvement of the laws and institutions of his State, and for the advancement of whatever was thought conducive to the permanent prosperity of his fellow-citizens—always relying upon him as amongst the foremost—never relied upon him in vain.

To most of the members of this House, he was, probably, known only in his public station. To those distinguished Senators whose nearer acquaintance he was so happy as to enjoy, (and he could not enjoy that without enjoying also their affection,) it would be superfluous to enlarge upon the traits of that modest and bland, but at the same time strong, energetic, influential character, which marked him in his individual and social, as well as in his official relations to men and things. Though few opportunities may have occurred to him here for the development of all his qualities, yet I believe that his quick and accurate power of observation—the promptness of his penetration—the soundness of his deliberate judgment—the constant sunshine of his cheerful benevolence—his serene patience under trials and vexations—the simple-hearted truth, the transparent honesty, of his desires and purposes—the boldness of his assertion of the right—the enduring firmness of his resolution—the clear integrity and the high-toned honor of his daily thoughts—these, I believe, have not been without their witnesses here. But I will not attempt to group all the strong and clear and beautiful qualities of mind and heart that constituted in him ability in action and in council, and invested him with a moral influence, (of greater value than all talent,) which added its just force to every effort of his intellectual strength. Sweetness of disposition, and power of intellect, were in him blended in that happy and harmonious union, without which neither can be of distinguished value to the possessor or to the world.

His sterling character, unobtrusive and unambitious of daily distinction, was one of those reserved moral resources of which this nation has many—though few, if any, more marked and sure than he—on which, in the testing times of trial call for the better powers of man, she might draw, with a confidence that need not falter, for the conservation of all that may be in peril.

I am not aware that he ever made a profession of Christianity according to the forms of any church; but his life was a continual profession of the truth and divine excellence of its precepts. His respect for its solemnities and love of its worship, his ready aid in the

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promotion of its interests, and conscientious performance of the duties it enjoins, his untiring exhibition of all the charities of life which it inculcates, are evidence that, if he postponed a more precise demonstration, it was still the very spirit of Christianity which wrought in his bosom and regulated his actions.

The history of our State will not be without its testimonies to his character and services; and it is there where he was best known, that his loss will be most truly appreciated and deeply deplored. Though born in the adjoining State of Connecticut, he early selected Rhode Island for education and citizenship. He graduated with honor from the college which is now Brown University, at Providence, and after completing his preparatory study of the law in the office of Judge Goddard, at Norwich, he commenced a practice which soon became extensive in both States, and made his permanent residence in Rhode Island. He was first brought into public life by an election to the Legislature of that State; and such was the estimation in which he was held by the citizens of his immediate community, that at thirty-four successive elections they continued to return him as their representative. During this period he was a prominent and active participator in all the important transactions of the body, and his last effort there was in behalf of the then doubtful and obstructed, but now triumphant cause of the temperance reform.

Passing thence again to private life, he occupied himself in the honorable pursuit of his profession, in the prosecution of important public works, in kind attention to the interest of others, and in the affectionate offices that endeared him to a happy home, until, in 1838, without his own solicitation or effort, he was elected by the Legislature to a seat in the Senate of the United States, for the term commencing in March, 1839. It is gratifying to the citizens of his State to perceive that, in that body of distinguished men with whom he became thus associated, a just appreciation of his worth has been manifested, both by the assignment to him of important positions in relation to the public business, and by the kindest personal demonstrations of respectful regard.

In the discharge of every Senatorial duty he was vigilant and constant, and unsparing of himself, until his labors were interrupted at the present session by the first and only disease that ever in his life reduced him to his bed; and this has now proved fatal. On Saturday last, at noon, at the age of sixty-seven years, in the full possession of unclouded faculties, with a patient and even cheerful resignation, and with humble hope, he died.

The death of a Senator of so much intellectual superiority and moral worth, is an event for the wide and deep regret of the nation. The abrupt loss of their long loved and honored fellow-citizen will be felt and deplored by the

citizens of his own State with a still keener and deeper grief.

But, sir, there is a circle to which this all unanticipated blow has carried bitterness and agony, which it were as vain as it would be obtrusive to attempt to depict. The sorrows in the hearts of that circle are too new and too sacred for any comment here, except to refer to the fact that there are such to suffer. To the widowed survivor, and to the bereaved sons and daughters, I can trust myself only to say, that, in all sincerity of true sympathy and respect, we commend them to that Power which alone could deal the blow, and alone can impart the consolations which may convert it into mercy.

Mr. T. then submitted the following resolutions, which were unanimously adopted:

*Resolved*, That the House has received with deep sensibility the communication from the Senate announcing the death of the Hon. NATHAN FELLOWS DIXON, a Senator from the State of Rhode Island.

*Resolved*, That, in token of sincere and high respect for the memory of the deceased, this House will attend his funeral obsequies to-morrow, at the hour appointed by the Senate, and will wear crape upon the left arm as mourning for thirty days; and, as a further mark of respect,

*Resolved*, That the House do now adjourn.

And then the House adjourned.

#### IN SENATE.

THURSDAY, February 8.

#### *The Case of the Creole.*

Mr. CALHOUN made a proposition to refer to the Committee on Foreign Relations, the Message from the Executive on the subject of the mutiny and murder by the slaves on board the *Creole*, and the liberation of those slaves by the British authorities in Nassau, New Providence.

Mr. CALHOUN said that his object in rising was to move a reference of the Message of the President, in reply to his resolution in the case of the *Creole*, to the Committee on Foreign Affairs. He had read the report of the Secretary of State which accompanied it, with attention. It met fully the call of the resolution, as it related to the facts of the case. It gave a full and well-authenticated statement of the rising of the slaves, and mutiny and murder on board; the carrying of the vessel into the port of Nassau; the occurrences there; the conduct of the British authorities, and the inhabitants of the place; the seduction of the slaves on board from their owners, and those having charge, except five, who refused to leave the vessel, and those who perpetrated the mutiny and murder. They were taken from on board, and are to be confined till the decision of the Government at home should be known in relation to them.

As to the remaining portion of the resolu-

tion, that which asked for information as to what steps had been taken to bring the guilty in this bloody transaction to justice, and to redress the wrong done to our citizens, and the indignity offered to our flag, he regretted to say, the report of the Secretary is very unsatisfactory. He, Mr. C., had supposed, in a case of such gross outrage, that prompt measures for redress would have been adopted. He had not doubted but that a vessel had been despatched, or some early opportunity seized for transmitting directions to our Minister at the Court of St. James, to demand that the criminals should be delivered to our Government for trial; more especially, as they were detained with the view of abiding the decision of the Government at home. But in all this he had been in a mistake. Not a step has yet been taken—no demand made for the surrender of the murderers, though the Executive must have been in full possession of the facts for more than a month. The only reply is, that he (the Secretary) had received the orders of the President to prepare a despatch for our Minister in London, which would be "prepared without unnecessary delay." He spoke not in the spirit of censure; he had no wish to find fault; but he thought it due to the country, and, more especially, of the portion that has so profound an interest in this subject, that he should fearlessly state the facts as they existed. He believed our right to demand the surrender of the murderers clear, beyond doubt, and that, if the case was fairly stated, the British Government would be compelled, from a sense of justice, to yield to our demand; and hence his deep regret that there should have been such a long delay in making any demand. The apparent indifference which it indicates on the part of the Government, and the want of our views on the subject, it is to be feared, would prompt to an opposite decision, before any despatch can now be received by our minister.

He repeated that the case was clear. He knew that an effort had been made, and regretted to say, even in the South, and through a newspaper in this District, but a morning or two since, to confound the case with the ordinary one of a criminal fleeing from the country where the crime was perpetrated, to another. He admitted that it is a doubtful question whether, by the laws of nations, in such a case, the nation to which he fled, was bound to surrender him on the demand of the one where the crime was committed. But that was not this case, nor was there any analogy between them. This was mutiny and murder, committed on the ocean, on board of one of our vessels, sailing from one port to another on our own coast, in a regular voyage, and committed by slaves, who constituted a part of the cargo, and forcing the officers and crew to steer the vessel into a port of a friendly power. Now there was nothing more clear,

than that, according to the laws of nations, a vessel on the ocean is regarded as a portion of the territory of the State to which she belongs, and more emphatically so, if possible, in a coasting voyage; and that if forced into a friendly port by an unavoidable necessity, she loses none of the rights that belong to her on the ocean. Contrary to these admitted principles, the British authorities entered on board of the *Creole*, took the criminals under their own jurisdiction, and that after they had ascertained them to be guilty of mutiny and murder, instead (as they ought to have done) of aiding the officers and crew in confining them, to be conveyed to one of our ports, where they would be amenable to our laws. The outrage would not have been greater, nor more clearly contrary to the laws of nations, if, instead of taking them from the *Creole*, they had entered our territory, and forcibly taken them from one of our jails; and such, he could scarcely doubt, would be the decision of the British Government itself, if the facts and reasons of the case be fairly presented before its decision is made. It would be clearly the course she would have adopted had the mutiny and murder been perpetrated by a portion of the crew, and it can scarcely be that it will regard it less criminal, or less imperiously her duty, to surrender the criminals, because the act was perpetrated by slaves. If so, it is time we should know it.

He (said Mr. C.) had deliberated for some time what course he should adopt in reference to the Message. He at one time had concluded to leave it quietly on the table, as the subject would necessarily come into the negotiation between the two Governments on the arrival of the special mission to England. He availed himself of the opportunity of expressing his pleasure that such a mission was to be sent. He hoped and he believed it was sent, and would come in the spirit of peace, and that an end would be put to all the questions in controversy between two people that ought to be at peace. He intended to avoid, on his part, any step that might throw impediments in the way of a fair and honorable adjustment. But, on full reflection, he came to the conclusion that it was due to the importance of the subject, that it should be referred to the appropriate committee. An omission to do so might be construed into an indifference to the subject, and thereby sink it in the scale of relative importance, compared to the other questions at issue between the Governments. Of all those questions, he deemed it by far the most important in character, and most dangerous to the peace and quiet of the two countries, and of greater magnitude to the section of the Union more immediately interested. As important as was the boundary question to Maine, or the question of search to navigation and commercial interests engaged in the African trade, they were nothing in importance to the inter-

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ests which more than a third of this Union has in this question. If we yield to the pretension which would refuse the surrender of these criminals, and that would confiscate the property of our citizens under circumstances similar to the case of the Creole and the Enterprise, where would it end? If we may not safely sail on our own coast, with our slave property on board, because Great Britain may choose to deny our right to hold property in slaves, may she not, with equal propriety, extend the same rule to our cotton and other staples? If we have no right to those whose labor produced them, what better right have we to the product of their labor?

He more readily moved to refer the subject to the Committee on Foreign Affairs, because the chairman (Mr. Rives, who, he regretted, was not in his seat,) was from the State more immediately interested in it. The Creole sailed from Richmond, and his constituents were among the sufferers; and he did hope that he would give that able and lucid exposition of all the deeply interesting points involved in the subject, of which he was so capable of doing.

Mr. PRESTON, as a member of the Committee on Foreign Relations, regretted the absence of the chairman of the Committee on Foreign Relations. He was detained, and had been detained from his place for some days past by indisposition. When in his place, he would act in reference to this matter, he had no doubt, with the greatest promptitude and zeal. The case was so important that it could admit of the promptest action; but he did not believe it was discreet to anticipate Executive action on the subject, which, no doubt, would have justice done as effectually as the delicate nature of the subject would permit. It was a delicate question, and in reference to this matter he could assure the gentleman from South Carolina that the committee would give the subject the consideration called for by its importance. The Executive branch of the Government, it was presumed, would take such action as was called for by its importance. He was glad, too, that a special minister was to come out here to negotiate upon matters at issue between the two countries, and with full power to adjust all those questions. Mr. P., however, said he had risen only to announce the indisposition of the chairman of the Committee on Foreign Relations, and to assure the Senate, in his absence, that the committee would give the subject the examination due to its importance.

Mr. CALHOUN knew that the chairman was indisposed, but he presumed that no objection would be made to the reference.

The communication was then referred to the Committee on Foreign Relations.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 16.

*Motion in Committee to strike out Enacting Clause—Appeal.*

Mr. CLIFFORD suggested to the gentleman from New York (Mr. McKen) to withdraw his present appeal, and if the Chair decided that a motion to strike out the enacting clause was not in order in committee, to appeal from that decision for the purpose of settling the point.

Mr. MCKEN then withdrew his appeal, and moved to strike out the enacting clause of the bill.

The CHAIRMAN decided that the motion in Committee of the Whole was not in order, from the authority of the Manual, which declared that it was not competent for a committee to whom a bill was referred to destroy that bill. He would read from page 150 of the Manual, where they found the following:

"If it be a bill, draught of an address, or other paper originating with them, they proceed by paragraphs, putting questions for amending, either by insertion or striking out, if proposed: but no question on agreeing to the paragraphs separately. This is reserved to the close, when a question is put on the whole, for agreeing to it as amended, or unamended. But if it be a paper referred to them, they proceed to put the questions of amendment, if proposed, but no final question on the whole: because all parts of the paper having been adopted by the House, stand of course, unless altered, or struck out by a vote. Even if they are opposed to the whole paper, and think it cannot be made good by amendments, they cannot reject it, but must report it back to the House without amendments, and here make their opposition."

By a rule of the House it was provided, that a motion to strike out the enacting clause of a bill should take precedence of a pending amendment. This motion to strike out the enacting clause was a motion to destroy the bill, which the laws of the Manual declared it was not competent for the Committee of the Whole to do. In conformity with this, a day or two since, in Committee of the Whole, the gentleman from Virginia had moved to strike out the enacting clause of the bill then before the Committee. The Chairman then decided that the motion was not in order, an appeal was taken, and the decision of the Chair was sustained. On the motion to strike out the enacting clause, the whole merits of the bill would be open, but the rules of the House directed that, when a bill was referred to the Committee of the Whole, the bill should first be read through by the Clerk, and then the Clerk should proceed to read it by clauses for separate consideration. That was the injunction of the rules. When the committee should have passed through the bill in that manner, and a motion was made to rise and report the bill, it furnished ample opportunity for unrestrained de-

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bate. And that motion could not be put when any member chose to debate the bill.

Mr. McKENZIE appealed from the decision of the Chair.

Mr. CLIFFORD said, if he had understood the decision of the Chair as relating merely to a question of time, and that after the bill had been gone through, it would be in order to strike out the enacting clause, he should not have debated it at all. If the Chair now decided that it was a mere question of time, he would not quarrel with the decision.

The CHAIRMAN decided that the motion to strike out the enacting clause of the bill while entering on its reading by clauses for amendment or discussion, was not in order generally under the law of the Manual, which was that the committee could not destroy a paper committed to them. The Chair said that when the committee had gone through this bill by clauses, on a general motion to report the bill to the House, the question would be open for full discussion. Then the gentleman from Maine, or any other gentleman, might move to report the bill to the House with a recommendation that the bill be not passed.

The Chair decided that the rule must be followed, and the bill be read through by clauses for amendment or discussion, on each clause separately, before the general merits of the bill were debated.

The appeal was debated at some length by Messrs. HOPKINS, FILLMORE, TILLINGHAST, and UNDERWOOD, who sustained, and by Messrs. ATHERTON, PROFFIT, and POPE, who opposed the decision of the Chair.

Mr. COOPER, of Georgia, said, when this appeal was first taken, he felt entirely disposed to sustain the Chair, being driven by an impulse to restrain the licentiousness of the debate, and confine it to the points at issue. On reflection, he perceived this would not be the effect; for it had been conceded by members on all hands, as well as by the Chair, that, *after* discussing the *whole* bill, section by section, it will be open for all the latitude of debate allowable under the motion to strike out the enacting clause.

The motion to strike out the enacting clause was designed to cut off useless debate, in cases where a majority of the House might be opposed to the principle of the bill. In such cases, therefore, it will be a saving of time to anticipate the discussion of the details by a vote on a proposition to strike out the enacting clause. But in cases where the House would hold on to the bill and amend, it is a mere matter of form and immateriality whether the discussion in chief shall precede or follow the debate on the details.

So much, then, for the effects of the decision as to the expediency and alleged reform of the proceedings of the House. But this question must be determined by the authority on which the Chairman rests, saying, that "the committee cannot destroy a bill." This being good

authority, if the effect of this motion be to destroy the bill, or in other words, to reject it, in the purview of the authority cited, there is no room to doubt. But I take it that the force of this authority is, that the bill must be reported back to the House with such recommendations as the committee may make in regard to it, as stated by the gentleman from Massachusetts.

Here I need some information of the Chairman, and desire to ask two questions: The first has been anticipated by the honorable gentleman from Massachusetts on the right, showing that, admitting the decision of the Chair to stand, the bill will still be open to equal latitude of debate.

The second is this: If, on the motion to strike out the enacting clause, the committee should decide affirmatively, will the enacting clause be obliterated or annihilated?—or will it, with the rest of the bill, be reported to the House, accompanied by the recommendation of the committee to strike out the enacting clause?

The CHAIRMAN replied, that in that event the striking out would be the destruction of the bill, and the committee would report that fact to the House.

Mr. COOPER not being satisfied with the answer, repeated the question.

And the CHAIR substantially repeated the same answer.

Mr. COOPER said he had failed to get the desired information of the Chair, and would vary the question, so as to apply it to the second clause of the bill, and ask whether, if that were ordered to be stricken out by the committee, it would not still, with the residue of the bill, be reported back to the House, with the proposition of the committee to strike it out; that it would not in *fact* be stricken out by the committee, but abide the action of the House on the committee's recommendation?

The CHAIRMAN said it would be reported back with the recommendation to strike out.

Then, said Mr. COOPER, what is true of the second section, must also be true of the first. And it follows, that a motion to strike out the enacting clause made in Committee of the Whole, does not involve the *destruction* of the bill, but merely the propriety of recommending its destruction to the House, since the *act* or *fact* of striking out must be decided and performed by the House.

This being true, it follows that the authority relied on by the Chair is not applicable, and therefore the motion to strike out the enacting clause is in order, and the decision of the Chair erroneous.

Gentlemen are mistaken as to the supposed advantages of the decision. The advantage is in favor of existing practice.

The mistake or error of the Chair, grows out of a misinterpretation of the purport of the authority on which he relies. Its object and end was to reserve to the House the fate of the bill, and not suffer the committee to smother it in its arms. If this authority is made to oper-

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ate an exclusion of *this* motion, it will, for the same reason, exclude every motion that shall involve a *rejection* of the bill. But, in answer to the gentleman from Massachusetts on the right, (Mr. ADAMS,) the Chair has advised us that such a proposition, with privilege of discussing in its broadest latitude, would be in order. The motion now made involves no more, and is, therefore, likewise in order. If so, the appeal ought to be sustained.

The CHAIRMAN said he would briefly state the grounds for his decision. A bill had been committed by the House to its committee; and now what was the duty of the committee when they entered on the consideration of the bill? The House had described by their rules what it must be. First, that the bill should be read through by the clerk for information; second, that it should be read by clauses, to be amended and debated by clauses, and when they had gone through the bill, noting such amendments as they might make on a separate paper, that they should report it to the House. The Clerk had now read the bill through, and had commenced reading it by clauses. They had passed one, and came to the second. The gentleman from New York (Mr. McKEON) had proposed to amend it, which was in order, and on that amendment he had proposed to debate the whole merits of the bill. The Chair had decided this was not in order. The gentleman then had moved to strike out the enacting clause of the bill. The Chair had decided that it was not in order. And first, because it was contrary to the rule of proceeding laid down in the rules of the House, which were laid without regard to expediency. It had been said by gentlemen that the rules of the House governed in committee. They did, so far as they were applicable. Was the motion which was now made, a motion to amend the bill? It was not. It was a motion to destroy the bill. And did that come within the law by which the House had given their committee power to proceed to read the bill by clauses, and amend and debate them separately? He apprehended not.

But the Chair did not rest here. He turned to the parliamentary law, which declared that when a bill was referred to them by the House, they could not do—what? Not, in the language of the gentleman from Georgia, (Mr. COOPER,) destroy the bill; but that they could not reject it. That was the language of the law. If they struck out the enacting clause of the bill, did they not reject it?

If this motion prevailed, here was a bill of some two or three hundred clauses, in the discussion of the second clause of which they would strike out the enacting clause, and report to the House, not that they had gone through the bill and examined clause by clause, but that they had *rejected* the bill without that examination.

Gentlemen had said if the decision of the Chair was sustained, it would cut off debate. The Chair did not so understand it. The rule

was intelligent and reasonable, and, if this committee adopted it, they would see the great advantage of going through the bill by clauses, and discussing the clauses on their several merits. And when the committee should have gone through the bill by clauses, a motion to rise and report it to the House would open the whole merits, and the question could not be put until every member had had an opportunity of debating it, if he desired. If the committee overruled the decision of the Chair, the gentleman from New York would make his speech on this motion, and then withdraw it. Another gentleman would, perhaps, on the next clause, move to strike out the enacting clause, and make a speech, and thus it would lead to a protracted debate, without discussing the details of the bill.

The question now was, "Shall the decision of the Chair stand as the judgment of this House?"

The question was taken by tellers, who reported, ayes 78, noes 52.

So the decision of the Chair was sustained.

## IN SENATE.

FRIDAY, February 18.

Mr. SIMMONS presented the credentials of the Hon. WILLIAM SPRAGUE, Senator elect from Rhode Island, in the place of the Hon. N. F. DIXON, deceased. Mr. S. was then qualified, and took his seat.

THURSDAY, February 24.

*Death of Hon. Lewis Williams.*

A message was received from the House of Representatives, by Mr. MATTHEW ST. CLAIR CLARKE, their Clerk, informing the Senate of the melancholy intelligence of the death of the Hon. LEWIS WILLIAMS, member of the House from the State of North Carolina, and inviting the Senate to attend his funeral, to-morrow, at twelve o'clock, M., from the Hall of the House of Representatives.

Mr. GRAHAM, of North Carolina, rose and addressed the Senate as follows:

Mr. PRESIDENT: I was a spectator of the melancholy event which is announced in the message from the House. It was the result of a sudden and violent attack of disease, which, defying all remedy, proved fatal in less than thirty-six hours from its commencement. On Monday, Mr. WILLIAMS was in his seat until the close of the session of the House. On Wednesday, but little more than an hour after the meeting of the House, he lay a lifeless corpse. Of the dreadful lesson which is taught by this most unexpected calamity, it is fitting that others should speak with more propriety than myself. But the occasion gives rise to a few reflections in which I hope to be indulged. A public servant has been struck down by the



hand of death, almost in the harness of his public labors; a man whose long life of nearly sixty years has been devoted to useful, honorable, and patriotic service. The occurrence is well calculated to arrest the ordinary course of thought and action here, and to turn our minds to the contemplation of that awful change to which we are all ultimately destined. It reminds us, too, that the older men are passing away from the public councils, and naturally excites some inquiry as to the life and character of him who has so long shared in the deliberations of Congress, and in the gratitude and confidence of his countrymen.

Mr. WILLIAMS was a native of the county of Surry, North Carolina, in which he always continued his residence. His education was liberal, having been graduated at the University of his native State, and having remained some time subsequently as a tutor in the same institution. Not very long afterwards he was chosen by the Legislature a member of the Board of Trustees of the University, of which he was ever one of the most vigilant, active, and faithful guardians. Anxious to be useful in the employment of the country, he seems early to have contemplated a public career. In the year 1814, he was returned from the county of Surry one of the members of the House of Commons in the General Assembly of the State; and, although a young man, he took a prominent part in the proceedings of the ensuing session. In 1815 he was elected the Representative in the Congress of the United States, of the 18th Congressional District, which embraces the county of his residence; and at every election since that time he has been returned by the same constituency to the same station. Of his talents and services as a member of Congress it would be superfluous to speak here, in the scene of his labors, and among his earlier and later associates. His legislative history is incorporated with the history of the country for more than a quarter of a century, in one continued series, and is found in the journals and documents of the House, the reports of its committees, and the register of its debates during that period. Few members of the House ever performed more useful or laborious service than did Mr. WILLIAMS for many years, while he acted as the chairman of the Committee of Claims, in adjusting the numerous demands on the Government which grew out of transactions connected with the late war with Great Britain. And none, it is believed, ever possessed the confidence of his associates in legislation in a greater degree.

With a mind patient, laborious, and strictly impartial, he applied himself diligently to this branch of the business of Congress, and was found so generally accurate that his opinions acquired the greatest weight. His continuous service for so many years, not only made him the Father of the House by seniority of membership, but his intimate acquaintance with public

affairs, his enlightened views of the structure and policy of our Government, and his inflexible honesty and manliness of character, rendered him one of the most valuable of the public counsellors. But, sir, it is not so much his public action in the high places of the country, and his capacities to be serviceable there, that I wish particularly to mark. His character will bear closer examination and a severer scrutiny. I wish to bear my humble testimony to the eminent purity of his private life and moral integrity, and to speak what I believe is the common sentiment in his wide circle of acquaintance, that, during his long public career, neither the angry contests of parties, the temptings of ambition, of avarice, of vice, have sullied his name with a single action which should cause one moment's regret to his friends. In his public conduct, he was manly, frank, ingenuous, and devoted to his duties. It happened to me, in my boyhood, to have been sent to school in one of the counties of his district; and I well remember to have witnessed the feelings of gratitude, of kindness, and affection with which he was cherished by those who so early and constantly honored him with their confidence, and whom he repaid with such fidelity and disinterested service. Always moral, he became later in life a religious man, and uniformly regulated his conduct by the principles of virtue and a conscientious conviction of duty.

But it was in the charities and kind offices of private and domestic life that Mr. WILLIAMS was most favorably known and appreciated. Although he never contracted the relation of marriage, there are those by whom his demise will be as deeply deplored as would be that of their immediate parents. He was a member of a numerous family, the head of which acquired an honorable fame by his patriotism and service in the war of the Revolution, and by his public spirit and elevation of character in after life. A twin brother of my lamented colleague now presides as judge in the courts of Tennessee. His elder brother, Col. JOHN WILLIAMS, was distinguished for his gallantry as an officer during the late war, and for his talents and character at a subsequent period, as a Senator in this body from the State of Tennessee, and in our diplomatic service abroad. A third brother was for a long period Adjutant General of the State of North Carolina. The two latter, though deceased, have left children. Others of his brothers and near relatives yet survive, and are among the most enlightened, hospitable, and liberal gentlemen, both in North Carolina and Tennessee. On the families of these the intelligence of their bereavement will fall as the thunder from a cloudless sky. To these, however, wherever situated, it will be consoling to know that, though the pangs of his dissolution were severe, they were of short duration, and that he met his fate with the calmness and resignation aris-

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ing from the consciousness of a well-spent life, and the hope of an immortality beyond the grave.

In response to the message of the House, I beg leave to offer the following resolutions:

*Resolved*, That the Senate has received with deep sensibility the communication from the House of Representatives, announcing the death of the Hon. LEWIS WILLIAMS, representative from the State of North Carolina.

*Resolved*, That in token of sincere and high respect for the memory of the deceased, the Senate will attend his funeral to-morrow at the hour appointed by the House of Representatives, and will wear crape on the left arm, as mourning, for thirty days; and, as a further mark of respect,

*Resolved*, That the Senate do now adjourn.

Mr. CLAY said: Prompted by a friendship which existed between the deceased and myself of upwards of a quarter of a century's duration, and by the feelings and sympathies which this melancholy occasion excites, will the Senate allow me to add a few words to those which have been so well and so appropriately expressed by my friend near me, (Mr. GRAHAM,) in seconding the motion he has just made?

Already, during the present session, has Congress, and each House, paid the annual instalment of the great debt of nature. We could not have lost two more worthy and estimable men than those who have been taken from us. My acquaintance with the lamented LEWIS WILLIAMS commenced in the fall of 1815, when he first took his seat as a member of the House of Representatives from the State of North Carolina, and I re-entered that House after my return from Europe. From that period until his death, a cordial and unbroken friendship has subsisted between us; and similar ties were subsequently created with almost every member of his highly respectable family.

When a vacancy arose in the responsible and laborious office of chairman of the Committee of Claims, which had been previously filled by another distinguished and lamented son of North Carolina, (the late Mr. YANCY,) in virtue of authority vested in me, as the presiding officer of the House, I appointed Mr. WILLIAMS to fill it. Always full of labor, and requiring unremitting industry, it was then, in consequence of claims originating in the late war, more than ever toilsome. He discharged its complicated duties with the greatest diligence, ability, impartiality, and uprightness, and continued in the office until I left the House in the year 1825. He occasionally took part in the debates which sprung up on great measures brought forward for the advancement of the interests of the country, and was always heard with profound attention, and, I believe, with a thorough conviction of his perfect integrity. Inflexibly adhering always to what he believed to be right, if he ever displayed warmth or impatience, it was excited by what he thought was insincere, or base, or ignoble. In short, LEWIS WILLIAMS was a true and faithful image of the respectable State which he so

long and so ably served in the National Councils—intelligent, quiet, unambitious, loyal to the Union, and uniformly patriotic.

We all feel and deplore, with the greatest sensibility, the heavy loss we have so suddenly sustained. May it impress us with a just sense of the frailty and uncertainty of human life! And, profiting by his example, may we all be fully prepared for that which is soon to follow.

The resolutions of Mr. GRAHAM were then unanimously adopted;

And the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, February 24.

*Death of Hon. Lewis Williams.*

The journal of yesterday having been read and approved—

Mr. RAYNER, of North Carolina, addressed the House as follows:

Mr. SPEAKER: I rise to perform a most painful and melancholy duty. Painful, most unaffectedly painful, it is to me; and melancholy it ought to be, and must be, in the associations accompanying it, to the members of this House. The Hon. LEWIS WILLIAMS, a member of this House from North Carolina, is no more. He who has been so long, and I may say so affectionately entitled "the Father of this House," has finished his earthly career. He expired at his boarding-house, in this city, about half-past one o'clock, P. M., on yesterday, after a short but most violent illness of only thirty-six hours in duration. All that medical attention and the kindness of friends could do, were exerted in his behalf, but all in vain. From the very commencement of his attack death seemed to have marked him for its own.

I am well aware that no words of mine can avail him aught; no sympathy of ours can restore him to his country and his friends. And it now only remains for us to perform the last sad rites to his memory, before we consign him to that "dust whence he sprang."

If I may be allowed to refer to the relations between him and myself, he was not only my colleague, but my friend. I have known him long, and known him well. Ever since I first formed his acquaintance, he has extended to me that friendship and that confidence, of which any one who knew him might justly feel proud. How mysterious is Divine Providence! how weak is human knowledge! Little, ah little, did I suppose one week since, that I should thus be called on to announce to this House that this political patriarch had fallen! What a sad commentary is this upon human vanity—upon the strife of contending factions! But three days since he was in the discharge of his duties on this floor, now he lies extended on the bed of death!

The deceased was in the fifty-eighth year of his age. He presented one of those rare instances in our history, of a man whose whole

life may be said to have been devoted to the public service of his country. He first entered political life in 1818, when he was elected to represent his native county in the Legislature of North Carolina; and so satisfactory was his conduct there, that in the following year he was elected to represent the district in which he resided, in the House of Representatives of the United States, of which body he continued, without intermission, to be a member till the period of his death.

The history of his life affords a practical refutation of the oft-repeated slander, that a long course of public service is incompatible with private virtue and personal honor. It is equally illustrative of that endearing confidence which should ever exist between the constituent and the representative—and of the meed of approbation which an honest people are ever willing to accord to a faithful public servant.

It needs no labored eulogy from me, to do justice to the manner in which he discharged his duties on this floor. It is a matter of history that, from his first appearance here, he was marked for his habits of industry, and his meekness of character, combined with energy, sterling sense, and disinterestedness of purpose. Those who have served with him, whether for a longer or a shorter period, know that he was always among the first in his seat, and the last to leave it. He always kept a vigilant eye on the progress of business through this House; and was ever as ready to sustain and advocate those measures which he believed to be for the good of his country, as to oppose those which he believed to be founded in injustice and wrong. The duties of his station he never neglected. Neither the inclemency of weather, nor personal inconvenience, ever restrained him from the performance of his trust. He was for years favorably known to this House and to the country, as the able and efficient chairman of the Committee of Claims; and it is well known that whilst he always guarded the public treasure, like a faithful sentinel, he never turned a deaf ear to the well-founded claims of justice.

His talents were of the useful and modest, and not of the showy and ostentatious order. He seemed to think that the duty of the statesman consisted in *acting* for the welfare of his country, and not in *speaking* for the entertainment of his hearers. He spoke but rarely, and then but briefly, and directly to the subject. His object was usefulness, and not display. His style was as terse and bold as it was vigorous and unaffected. And we all know how often, in moments of confusion, a few words from his lips removed our difficulties, and relieved the House from embarrassment.

In his intercourse with his fellow-members I need not say, what is well known here, that he was uniformly mild, conciliatory, and amiable. And although remarkable for the firmness and tenacity with which he adhered to his purposes and his principles, yet those who knew him well know that he always exercised a be-

coming charity for the honest difference of opinion entertained by others. He was distinguished for the decorum and orderly propriety of his deportment. And never, in the most trying and exciting scenes, did he so far forget the dignity of his station, as to suffer his feelings to triumph over his judgment. A rigid advocate for the maintenance of order, he always strengthened his precept by the force of his example.

Such he was as a *public* man in the discharge of *public* duty. But it was equally in his private and social relations, that his character presented an example worthy of imitation. His firm and unbending integrity, his uncompromising devotion to principle, his scrupulous regard for truth, sincerity, and honor, have long been proverbial. A warm and devoted friend, a charitable and kind-hearted man, his heart was always responsive to the appeals of sympathy, his purse was ever open to the voice of distress. Such being the case, may we not well and truly exclaim—an honest and virtuous man has died! His course has, indeed, been an eventful one. With a calm and contemplative mind, he has, for more than a quarter of a century, viewed the shifting scenes on the great drama of his country's history; and during the darkest periods of that country's peril, he has clung to her with patriotic affection. He has seen peace and war, prosperity and calamity, excitement and calm, succeeding in their turns. He has seen parties and administrations, factions and dynasties, rise and fall. Yet, during all the twenty-eight years of his public career, censorious as is the world, the tongue of slander has never whispered aught against his integrity and his virtue. To the last he continued to "fight the good fight," and to "keep that faith" which is based on the true principles of liberty and an unwavering devotion to the free institutions of his country. Let me not be misunderstood; I have no allusion to party.

No matter how others may be affected, his colleagues know how to appreciate his loss. How often, in the hour of difficulty, have we consulted his sound practical wisdom and tried integrity! He stood, as it were, an impersonation of the character of the "Old North State," whose interests he represented so faithfully, and which he loved so well—combining energy with calmness, patriotism and virtue with unpretending simplicity. Although his ears will no more listen to the murmuring of waters from her western mountains; although his eyes will no more be gladdened with the view of his dear native hills; yet his memory will live in the hearts of his confiding constituents, and be handed down with reverence to their succeeding children.

Although we mourn his loss, yet we have the consolation to know, that he died in "the triumphs of that faith" to whose precepts he conformed in life. At an early age he attached himself to the Presbyterian church, and continued an exemplary member of the same down

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to the period of his death. He never suffered public duty or private pleasure to interfere with the discharge of those duties which he owed to his God. To his latest breath he looked with humble and calm resignation to that Great and Good Being, in whom he trusted when living, and whom he "confessed before men." Those of us who witnessed his last moments, have had read to us the impressive and never-to-be-forgotten lesson, with what quiet composure a Christian can die. He has left this world forever; but still

The sweet remembrance of the just  
Shall flourish while he sleeps in dust.

Mr. RAYNER then sent to the Clerk's table the following resolutions:

*Resolved*, That the House has heard with the liveliest sensibility the annunciation of the death of the Hon. LEWIS WILLIAMS, late a member from the State of North Carolina, and the oldest member in service in this House.

*Resolved*, That this House tenders to the relatives of the deceased the expression of its sympathy on this afflicting event; and as a testimony of respect for the memory of the deceased, the members and officers will wear crape on the left arm for thirty days.

*Resolved*, That the members and officers of this House will attend the funeral of the Hon. LEWIS WILLIAMS, deceased, late a member of this House, to-morrow, at 12 o'clock meridian.

*Resolved*, That a committee be appointed to take order for superintending the funeral of the deceased.

The resolutions having been read—

Mr. ADAMS rose and said: Mr. Speaker, I second the motion, and ask the indulgence of the House for the utterance of a few words, from a heart full to overflowing with anguish which no words can express.

Sir, my acquaintance with Mr. WILLIAMS commenced with the second Congress of his service in this House. Twenty-five years have since elapsed, during all which he has been always here at his post, always true to his trust, always adhering faithfully to his constituents and to his country—always, and through every political vicissitude and revolution, adhered to faithfully by them. I have often thought that this steadfastness of mutual attachment between the Representative and the Constituent was characteristic of both; and, concurring with the ideas just expressed with such touching eloquence by his colleague, (Mr. RAYNER,) I have habitually looked upon LEWIS WILLIAMS as the true portraiture and personification of the people of North Carolina.

Sir, the loss of such a man, at any time, to his country, would be great. To this House, at this juncture, it is irreparable. His wisdom, his experience, his unsullied integrity, his ardent patriotism, his cool and deliberate judgment, his conciliatory temper, his firm adherence to principle—where shall we find a substitute for them? In the distracted state of our public counsels, with the wornwood and the gall of personal animosities adding tenfold

bitterness to the conflict of rival interests and discordant opinions, how shall we have to deplore the bereavement of *his* presence, the very light of whose countenance, the very sound of whose voice, could recall us, like a talisman, from the tempest of hostile passions to the calm composure of harmony and peace.

Mr. WILLIAMS was and had long been, in the official language which we have adopted from the British House of Commons, the *Father* of the House; and though my junior by nearly twenty years, I have looked up to him, in this House, with the reverence of filial affection, as if he was the father of us all. The seriousness and gravity of his character, tempered as it was with habitual cheerfulness and equanimity, peculiarly fitted him for that relation to the other members of the House, while the unassuming courtesy of his deportment, and the benevolence of his disposition, invited every one to consider him as a brother.

Sir, he is gone! The places that have known him shall know him no more; but his memory shall be treasured up by the wise and the good of his contemporaries, as eminent among the patriots and statesmen of this our native land; and were it possible for any Northern bosom, within this hall, ever to harbor for one moment a wish for the dissolution of our National Union, may the spirit of our departed friend, pervading every particle of the atmosphere around us, dispel the delusion of his soul by reminding him, that in that event he would no longer be the countryman of LEWIS WILLIAMS!

Mr. W. C. JOHNSTON rose and said: I rise, Mr. Speaker, to add my humble tribute to the virtues and memory of a departed friend—one who I may truly say stood to me in the place of a father; for, when young and inexperienced, I first entered this hall, it was to him I was indebted for the prudent counsel and kind aid which inexperience always finds grateful from the head and heart of such a man. His public career, identified for more than a quarter of a century with the legislation of this House, is one upon which every patriot should delight to gaze. "As Aristides, just; as Cato, pure;" he has stood before the world the advocate of justice to individuals and the Government.

His indomitable and unbending integrity, his consistency as a politician, and his adherence to the best interests of his country, are too distinguished even for eulogy.

Remarkable for his sound judgment and common sense, his voice was never raised without instruction; and his purposes were never perverted amid the excitement of party feeling.

Though not brilliant and eloquent, yet men of brilliancy and eloquence in this hall were his inferiors; and his *light*, safe and steadfast, shone even over the path of more aspiring statesmen.

Sudden and melancholy as is his death, he was still spared long and faithfully to serve his

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*The Apportionment Bill.*

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native State, and his memory will be among the richest of her treasures.

When called to visit my departed friend, I found him sinking into death, and at the bedside of the dying patriot I realized the loss which I, this House, and this country, have sustained; and I cannot repress the utterance of my deep grief at this sudden and overwhelming bereavement.

It is with an aching heart I have now risen to speak the language of a long-cherished affection for a friend, a patriot, and an honest man.

The question was then taken on the adoption of the resolutions, and they were unanimously adopted.

On motion of Mr. STANLY, the usual message was ordered to be sent to the Senate.

And the House adjourned.

WEDNESDAY, June 1.

*Portrait of Columbus.*

The SPEAKER presented to the House the following communication:

CHARLESTON, May 24, 1842.

*To the Hon. Speaker of the House of Representatives:*

SIR: I have the honor to solicit your acceptance, on behalf of Congress, of the accompanying portrait, representing the great discoverer of our hemisphere—the immortal Columbus; none of whose likenesses hitherto extant can be regarded as authentic.

While in charge of our legation at Madrid, it was my good fortune, after many fruitless searches in quest of the genuine likeness, to fall in with that of which I now present the copy, executed for me by Senor Madrazo, director of the Royal Museum in that capital.

The certificate annexed to the portrait of Don Fernandez de Navarrete will, no doubt, appear conclusive as to its superiority over other likenesses, to all aware (and all who know him are so) as well of his high sense of honor, as of his unrivalled acquaintance with the history, private and public, of all the great discoverers. And if, after referring to his testimonials, this painting be regarded worthy your acceptance, my satisfaction will be shared by every true American, in seeing it placed, as it ought to be, among the effigies of the fathers of our great Republic.

I have the honor to be, sir,  
With the greatest respect,  
Your obedient servant,  
ARTHUR MIDDLETON.

Mr. EVERETT and Mr. HOLMES rose simultaneously.

Mr. EVERETT moved the reference of this communication to the Committee on the Library.

Mr. HOLMES submitted a resolution of acceptance of the portrait; that it be placed in the library of Congress; and that the thanks of the House be returned to the donor.

Mr. EVERETT reiterated that it was proper that the communication should be referred to the Committee on the Library before the House took any final action on the subject.

It was so referred accordingly.

IN SENATE.

FRIDAY, June 8.

*The Apportionment Bill.*

The question pending was the motion of Mr. WRIGHT to amend the following section:

SEC. 2. *And be it further enacted,* That, in every case when a State is entitled to more than one Representative, the number to which each State shall be entitled under this apportionment shall be elected by districts, composed of contiguous territory, equal in number to the number of Representatives to which said State may be entitled—no one district electing more than one Representative.

Mr. WRIGHT had moved to strike from the above section the words “no one district electing more than one Representative,” and to insert the words “as far as that can be done in conformity with the established election systems of the States; but no State shall, by virtue of the provisions of this section, consider itself called upon to divide counties, or other election districts, for the purpose of furnishing single districts.”

Mr. BAGBY observed, that whatever the views of Senators on this side of the House might be, with regard to the second section of the bill—whether modified, as proposed, or not—he was opposed to it in any form in which it could be presented. He considered it a proposition wholly unconstitutional. This Government possesses no powers, except those expressly granted to it in the constitution, and the power to pass laws necessary for carrying out those expressed powers. This he showed from the context of the instrument itself; and he pointed particularly to the power granted by the constitution to the Legislatures of the States, of electing two Senators each; and asked, was not the same right insured to the people of the States to elect their own Representatives? What, he asked, was it that led to the Revolution, but the denial of the right of representation? and was not this constitution a guarantee of the corrective?

Some gentlemen seem to think that although the general-ticket system may be more convenient to some of the States, yet precedent, and the sanction of years, have been in favor of the district system. In great political questions, however much entitled to consideration both precedent and the sanction of former ages may be, yet the experience and the judgment of the present generation should, in his mind, be entitled to preference.

He reviewed in detail the arguments in favor of the district system, pointed out their fallacy as he proceeded, and showing that the operation of such a system, instead of producing that balance of interests in the National Legislature contemplated by the framers of the constitution, would destroy that balance. If the effect of the general-ticket system was to give the large populations of the large States a preponderance over the small populations of the small States, that was a circumstance foreseen by the framers of the constitution; and it was well understood

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that such preponderance was inevitable. To balance it, the Senate was constituted upon such a foundation as to secure to every State, whether large or small, an equality in its representation in one branch of the Legislature.

He contended that it was entirely visionary to hope, by any change from the general-ticket system to the district system, to effect the chimerical object of representing minorities, as well as majorities. The whole foundation of the republican institutions of this country, was based on the principle of the majority being entitled to the government of the whole. The very principle of the capacity of men to govern themselves, rested on this element of republican institutions. He did not wish to be understood as denying the right of minorities. He had been bred in the school of minorities; but he believed the right of those in the minority was secured in the right to vote.

He supported his argument as to the unconstitutionality of the district system, by reference to the proceedings of conventions in several States. He asked, would any gentleman contend that it was constitutional to divide one county entitled to four members, into four districts, confining a voter to vote for only one member, and denying him the right of voting for the other three Representatives of his county? The constitution entitles the voters of the county to vote according to their respective numbers; and the respective numbers of that county entitle it to four members. But Congress says no voter in such county shall vote for these four members; how can such an order be constitutional? And if it is not in this case, it cannot be in respect to the whole State.

If it was true that the adoption of the general-ticket system would lead to a great overgrown oligarchy, it was not his fault, or that of the Senator; for he was quite satisfied both had the same object in view—the best means of securing popular rights. But, if any change was necessary, it could not, he contended, be effected constitutionally in any other way than that pointed out by the constitution itself. Would the Senator from Kentucky say that such an organic law could be passed, according to the constitution?

Mr. CRITTENDEN explained, that he had made use of the term "organic law" in reference to a law necessary to organize the House of Representatives.

Mr. BAGBY was glad the Senator had called his attention back to the organization of the House of Representatives. He considered it a great mistake to suppose that local interests were to be represented in detail in that House;—these details were taken care of in the State Legislatures; it would be wholly out of place to introduce local influences into a National Legislature, intended to represent the people of a State collectively, in reference to matters of national import, or affecting the interests of States.

He wanted to have the whole people represented in the whole number of their Representatives. He wished to enjoy the right of an

American citizen, which he considered paramount to the rights of either a Senator or Representative; and it was in maintenance of that primary right, that he contended for the enjoyment of the right to vote for every Representative of his State, as well as for the Representative of his own vicinity.

The bill was not only constitutional in principle, but grossly unconstitutional in its details. It is contended that Congress has power over the time, manner, and place of elections, in the power to alter the regulations of the States. But he could point out many things in relation to the time, manner, and place of elections, which solely belong to the States, and which Congress could not constitutionally attempt to regulate. And if Congress was precluded from interfering in any one thing, it could not be more certain that it was precluded from interfering in the manner proposed by this bill. It may be passed into a law; but it will be a dead-letter law, for it never can be carried out. He did not know how many States would obey it; but he knew at least one State which never would. It might be called an order, mandate, or a regulation; its name, however, would not sanction its usurpation. He would ask for the grant of the power, satisfied that it could not be produced. If gentlemen are convinced that the crisis has arrived in which it is imperatively necessary to act, and to act decisively, how did it happen that they stopped short half-way, and proposed to accomplish only half the work necessary to carry out the change they contemplated? Why not come out like men, and, if they have the power, assert it, when the necessity is so apparent and imperious? He could not help looking to the consequences which must result from this bill being adopted, and attempted to be carried out in its present form. These consequences are unavoidable.

He did not deny the power of Congress over the time, manner, and place of elections, in reference to making, or altering regulations made, or neglected to be made, by the States; but this power did not, and could not, reach to the interference with any personal rights secured to every citizen by the constitution. He would illustrate his meaning: As to time, Congress might direct a particular day for elections—such as the first day of August; as to place, Congress might direct that the elections should be held at the county seats of each county, or in different precincts; as to manner, it might direct the vote to be taken by ballot or  *viva voce* ; but it could not, constitutionally, order a voter to vote for one man and not another. Now, here was an unconstitutional usurpation of power, which would be a direct violation of the constitution.

He maintained that every qualified voter of a State, had the right to vote for every member to which such State was entitled to represent her in the House. If any other course was pursued, the design of the constitution would

be defeated; for the constitution secures to each State her proper quota of Representatives, to be elected by the people of such State—not by a portion of the people, but by the whole people. He argued that, if the district system was a proper one by the constitution, Congress had the power to adopt it, and fix its details; but that she had no right to call upon any State to do it. An act making such a call, would be therefore unconstitutional. The march of Federal power was to be more strongly marked in this Congress, than by any preceding one since the formation of the Government. He meant that the Federal Government had made, and was making, greater stretches towards engrossing the powers of the States, than at any previous period in the history of Congress.

The National Treasury, too, had become as empty as space. The Government is bankrupt; its credit is destroyed. You have instituted loans, and gone into market with your certificates, which could not be disposed of on any terms. You have refused to bring back to the Treasury one of the standing sources of revenue. You beg with one hand and give away with the other. One of the Federal encroachments was to be found in the establishment of the bankrupt law, which Congress had refused to suspend. The bill before the Senate was another step towards Federal encroachment. A measure was now in progress in this body—for what purpose? For the purpose of stripping the States of their criminal jurisdiction—not in all cases, but such as the Federal Government, in its discretion, thinks proper to prescribe.

He hoped this course of legislation would soon be arrested, and that a return would be made to the first principles of this Government. He viewed the tendencies of such measures as this, in connection with other measures infringing upon the sovereign powers of the several States, as the lion's tracks on the broad plain—all leading to one den. No encroachment could be made on the sovereign powers of the States that did not weaken them, and, in the same ratio, aggrandize and consolidate power in the Federal Government. This was a progression that could not long continue, without reaching a point at which an organic change would be inevitable.

Suppose it should happen that this law would be passed? he asked, what would be the first question put to gentlemen on their return to their constituents? Would it not be, What in the world put it into your head to vote for this change? What occasion was there for it? We did not call for it, or want it. The people of Georgia, of Alabama, of Mississippi, &c., &c., did not call for it, or want it. There was no necessity for it.

Mr. GRAHAM wished very much to see the vote taken on this occasion; and it was, therefore, with reluctance he felt himself obliged to delay that event by expressing his views in relation to the subject. He had listened with great attention to the remarks of the Senator

from Alabama, and was not a little surprised to find a doctrine—advanced by him for the first time, as far as he knew—that all the States are constitutionally bound to establish the general-ticket system.

Mr. G. entered at large into the refutation of this doctrine, and quoted several passages from the *Federalist*, to show that the district system was the mode of electing members to the popular branch of the National Legislature, contemplated by the founders of the constitution. He had not been able to find, in the debates in the convention, that any one was in favor of the adoption of the general-ticket system. The district system was adopted by most of the States immediately after the ratification of the constitution; and, among these, was the State of Virginia, in which Mr. Madison, Gen. Washington, and many of the framers of the constitution resided. It was clear, then, that the system was considered not only undoubtedly constitutional, but most eligible. He next reviewed the evidences of public opinion in favor of the district system, from the organization of the Government down to the year 1816. It was a system so much in favor with the people of North Carolina, that Dr. Smith brought the subject before the House of Representatives in 1820, in a resolution in favor of an amendment to the constitution—that Representatives should be so elected; and the vote on it was 94 yeas, 54 nays; and it was only for want of two-thirds that it failed. He referred to Mr. McDuffie's report in favor of making a uniform law for the election of members for the House of Representatives, in the sentiments of which he fully concurred.

Mr. G., for the purpose of showing that this was not the first time that the subject of districting the States had been agitated in Congress, read extracts from this report of Mr. McDuffie, to establish the fact that it had not only received the countenance of Congress, but of the people of the States. He coincided with that gentleman, that it was highly expedient to adopt that system. He argued that in every country of which he had any knowledge, where a Representative Government existed at all, they had not elected by the whole mass of the voters; but, on the other hand, in every country which possessed freedom to any extent, the people had elected their public agents by districts, parishes, counties, or whatever they were called; so that evidences of the public opinion might be brought to the capital. In order to have a correct representation, there should be something of intimacy between the Representative and his constituents, so that he might explain to them the opinions which he entertained of public affairs, and give to them an account of his stewardship. This was the case where the district system was in force, but not so with the general-ticket system.

In order to have a fair representation, it was necessary that the Representative should have an opportunity to meet the people he represents

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face to face. This could only be done by the district system. When the districts are made of a convenient size, a man must have more worth than mere talent to recommend him to the consideration of the people—he must also have virtue, which was essential in a Representative. He believed it was necessary, to preserve the Representative system in its purity, to bring the representative in a close alliance with the constituency. This could not be done through the general-ticket system. Of the virtues of the candidates, it would be difficult for the mass of the population of a State to know.

Mr. G. contended that the evidences of the public sentiment were in favor of the district system. He quoted Mr. Madison, from the *Federalist*, to sustain him in the position that the plan proposed was excellent and proper; and, so far from being a rule through which to acquire new power, it was one merely to produce uniformity. The system was not a novel one, but was long known to the American people, and was pressed upon the consideration of Congress by the people, not only as a matter of experience, but as a constitutional provision, for the purpose of preventing the institutions of the country from falling into the hands of a faction.

It was admitted, he believed, on all hands, so far as he understood the argument, that Congress might district the States, and cause the Representatives to be elected according to the district system; yet, it was argued, that if she preferred the district system, she must execute the law—she must lay off the districts, but could not command the States to do it; that is, if she legislated at all upon the subject, she could not do it partially, but must do it fully, and leave nothing to depend upon the volition of the States.

Now he (Mr. G.) maintained that, by the superseding power in the constitution, which gives Congress the right to alter the regulations of the States as to the times, place, and manner of election of Representatives, she had the right to declare that the district system should be adopted, without executing it. She has the right to supersede what the States have done upon the subject, which involved the further right to make. The power given to the States over the subject was a mere trusteeship, and not absolute; but liable to be superseded, and capable of being controlled by the action of Congress. If Congress has the power to establish and lay off the district system, she has the power, also, to grant a trusteeship to execute the law for her.

Mr. BUCHANAN had not yet spoken on this subject at all, nor did he know that he would; but it appeared to him that the Senator had not yet touched on the main point; and that was, whether he considered Congress had a right to order the States to carry out this law? and, if so, how the power is to be enforced? and, if Congress passed the law, was it not bound also to carry it out itself?

Mr. GRAHAM said he understood the Senator from New York to concede the whole power; and all he contended for was, that Congress might, at its discretion, exercise the power in part, in preference to an exercise of the whole power. But until Congress acted, the power of the State Legislatures over the question was full. But the power became absolute in Congress so soon as she acted upon the subject. In reply to the argument that there was no cause for the action of Congress, no State having failed to provide for election of Representatives; he maintained that Congress could act without a State being in default. He did not think it was proper to defer the exercise of such a power till some State should be in default. It was better to provide in anticipation, and not wait till such default should occur, when the feelings and affections of the people would be fixed.

In conclusion, he contended that if the Legislatures of the States should fail to district the States under this law, Congress would be obliged to declare elections under any other system null and void. It would not be necessary, in default of action by any States, to attempt to force, by the powers of the General Government, any such States to act. If they failed to elect under the law, their Representatives would be repudiated and a new election ordered. He further argued that it would be a departure from the theory of the constitution, and from what it was intended by its framers, to adopt a general-ticket system, which looked rather to a representation of States than to individual citizens. The Senate was the body in which, by the constitution, the States, as sovereignties, were intended to be represented; and the House of Representatives the body in which the people were intended to be represented—not as communities, but as individual citizens. The interests of individuals would be swallowed up and lost sight of, if the principle of representing States or communities in both branches of Congress should be established as a principle.

Mr. WALKER observed, that before the Legislature of his State should meet at its next regular session, if this bill was passed in its present form, the election of her Representatives must take place before any law of the State can be passed to carry out the mandate of Congress. How, then, was the State to be represented at the next Congress, if the power existed of rejecting its Representatives for not being elected in conformity with this law?

He contended that this bill would be a return to the principles of the old confederation. Both Mr. Madison and Mr. Jefferson had declared the difference between the old confederation and the new Constitution of the United States, was, that the powers of the old confederation were exercised as imperative mandates on the States; whereas the constitution secured to the States the principle that no powers should be exercised over the States but those they agreed specifically should be so exercised.

It was never contemplated by the framers of



the constitution that Congress would pass a law compelling a State to pass a law, any more than that it would have power to compel a man to vote for a law which he believed to be unconstitutional. Suppose the State of Alabama should continue of opinion that the mandate of the constitution is, that elections shall be by general ticket; what would be the consequence of attempting to enforce this law, ordering them to change their system to the district system, but that Alabama should either go without any representation, or that her citizens should be compelled to vote for a law they believed to be unconstitutional? This is going back to the principles of the old confederation, the great evil of which, Mr. Jefferson says, was, that it issued its mandates to sovereign States, compelling them to obedience.

Every law which Congress has power to pass, it must have power to execute. Who will be sent to execute this law? Will it be the President of the United States, who is sworn to carry out the laws of Congress? Can he go into every State, and compel legislatures to assemble and pass a law, and then compel the Governor to sign the law? The proposition involves an absurdity. The whole thing is an absurdity.

Mr. BAYARD interposed. He took it for granted that, when a question is asked in argument, it is either for the purpose of obtaining an answer, or for assuming the admission of an implied conclusion. Now, he was ready to answer the Senator's questions, but not to admit his inference. His answer was, that there was neither absurdity nor want of precedent in this mode of using a power, without asserting the execution of the law, which is left for the States themselves to execute.

He referred to the 15th paragraph of the 8th section of the 1st article of the constitution, for a case in point. That paragraph is: Congress shall have power "to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress." Now, he asked the Senator from Mississippi, (Mr. WALKER,) was not this an instance in which Congress had the power to pass a law regulating the discipline of the militia? Yet it might be said because the State had the appointment of the officers, and the officers commanded the militia, Congress could not make use of that force to execute its own law. It was for Congress to make the law, and for the State Legislatures to provide the means of carrying it out. Such, too, was the case in relation to the bill before the Senate.

Mr. WALKER said, if that was so, Congress must wait till the officers are appointed by the States before it can attempt to carry out its laws by military force. And here the Senator had given a clear demonstration that the Presi-

dent would have no business going into a State to carry out this law.

Mr. W. considered it was the officers appointed to carry out the laws who were amenable to Congress for not carrying them out—not the citizens, who deny their constitutional obligation to obey the law. Was there any power to pass a law to carry this law into effect, should the officers appointed to carry it out fail to do so? It could not be done; which shows that it is not a power within the meaning of the proviso in the constitution, that Congress shall have power to pass all laws necessary to carry out the enumerated powers of the constitution.

It was because he wished to discourage collisions between the States and the General Government, that he had risen to oppose this clause. He was in favor of the district system; but he was opposed to carrying it to such extremes as to carve up districts in such a manner as to make them temptations for gerrymandering from one to another. He could not but look upon this law as a law tending to bring Congress into contempt; for the result would be, if it is passed, that Representatives elected in contravention of the law must be admitted to their seats—evinced a practical illustration of its nullity.

Mr. RIVES had listened with attention to the remarks of the Senator from North Carolina, so well and so eloquently expressed; and would not have stood up to say a word, had it not been for the allusion which the Senator had made to the action of Virginia in 1816. He agreed in every thing the Senator had said in favor of the district system in preference to the general-ticket system. But he contended that all the proceedings to which the Senator had alluded, were for the purpose of procuring an amendment to the constitution, and not as any indication that Congress ought to exercise the power. He challenged the Senator to point out a solitary instance in which it had ever been proposed or suggested that Congress should exercise this power of ordering the district system to be established throughout the States. It was too delicate a power to be used without imperious necessity. His main objection was yet unanswered: it was, that if this law be passed now, another Congress might come in, and, for party purposes, repeal it, and establish the general-ticket system.

Mr. HENDERSON, in answer to the question which had been repeatedly asked, Would Congress command the obedience of the States? replied by reading the clause in the bill, and stating that all Congress conceived it necessary to do was to pass the law. It was the duty of the legislatures of the States to carry it out.

The Senate then adjourned.

SATURDAY, June 4.

*The Apportionment Bill.*

The question pending when the Senate ad-

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journal on yesterday, was the motion of Mr. WRIGHT to amend the bill.

Mr. MOREHEAD said: When the convention met in 1787, for the purpose of framing a constitution to be adopted by the several States then forming the Confederation, great difficulties arose as to the details of formation; and, in order to lessen those difficulties, it became necessary to appoint a committee of details. Before this committee all questions at issue were debated and adjusted, and then laid before the Convention. The first questions were brought forward in the form of resolutions, and were discussed for some time, till all their bearings were ascertained. In the month of August, the Committee on Details was appointed to consider and report a plan for the constitution. On the 6th of August, 1787, a report was made, accompanied by the plan of constitution approved by the Committee on Details. In the first section of the sixth article of this plan, there was a provision, that the time, manner, and place of holding elections, should be prescribed by the Legislatures of the States, respectively; but that the regulations of the States might, at any time, be altered by the Congress of the United States. Here was a direct reservation to the States that they should prescribe the time, manner, and place of holding elections; and, until that was done, Congress could not interfere; but, being done, it could interfere and alter the time, manner, and place appointed by the State Legislatures. This plan was discussed at great length. He would call the attention of the Senate to what was said by Mr. Madison, and others, on that occasion; with a view of showing how fully all the bearings of the question now at issue were then considered. Mr. M. read passages at considerable length from the debate to which he alluded.

Here, then, the very question of power now under discussion came up—whether the States should reserve it wholly, or the Congress of the United States should have power to control the subject by alteration. He quoted still more at large from the debates in convention, to show the opinions entertained by the most prominent of the delegates, and the motives which influenced the choice of the clause as it now appears in the constitution. He considered it perfectly conclusive, from this evidence, that the members of the convention intended that the power should be exercised as now proposed, whenever Congress should decide upon the expediency. It was given, in the first place, to counteract any movements of the Legislatures of the States to carry out any specific object inconsistent with the general interests of the Confederation. One of the great objects was, that the Federal Government should possess the power of producing uniformity throughout the Union, and prevent the destruction of the General Government—a power necessary for self-preservation.

Particular regulations were to be left to the

Legislature of the States; but general regulations were to be given to the Federal Government. Suppose an amendment to this bill should prevail, that elections should be carried on throughout the United States by the general-ticket system: could it be denied that Congress had the power to order its adoption, under the provision of the constitution which gives the control of the general regulation to the Federal Government? If the power over the one proposition is undoubted, so it is with regard to the other.

In 1789, the first Congress met under the constitution. It is well known that it met under circumstances of embarrassment; some of the States having hesitated about ratifying the constitution. He referred to various propositions made at that time to limit Congress in the exercise of its power over the time, manner, and place of holding elections, except in cases where the States should refuse or be disabled from exercising the power—propositions which bear the strongest evidence that the power was conceded to the Federal Government; and that, so undoubted was the power of Congress, that it was thought by some necessary to curtail it. The amendment was rejected by a majority of some five or six votes. Such is the contemporaneous exposition of this clause.

The Senator from New Hampshire puts his opposition on the ground that Congress cannot interfere, except for proper and sufficient reasons. Now, he contended that the provision of the constitution was explicit and unconditional. It is, therefore, a power to be exercised at the discretion of Congress. If the States exercise properly the power which they are suffered to exercise, Congress may not see fit to interfere; but if Congress conceives the power is improperly exercised by the States, it has undoubted discretionary power to make or alter the regulations of the States. Who was to be the judge of the discretion of Congress? Who could be, but Congress itself? When it is once admitted that the power exists, there is no appeal. The only question, then, which could arise, was the question of discretion; but if Congress decided that it was expedient to exercise the power, surely the Senator from New Hampshire would not contend that it would be consistent with the terms of confederation that New Hampshire should set at naught a law of Congress, deliberately considered and adopted, and decided to be within the powers of the Federal Government.

Great objection had been made to this clause that it is mandatory—that it commands the obedience of the State Governments. It has in contemplation no such purpose. It claims no right to issue a mandate—issues no order—demands no obedience. But, it is said, if this law is passed, and Congress has no power to carry out its own law, the law must be a nullity; which refutes the assertion of the power. His first answer to this was, that Congress performs

its defined duties in making a law to carry out an express power; and the matter then is taken out of the hands of Congress by the constitution, and its execution is confided to the Legislatures of the States. They are accountable to their States for the non-fulfilment of their duties. Why would the States disregard this law? Why should any State be offended, and prefer taking the power from the Federal Government? Does not Congress, in effect, say to the States—We forbear to exercise our power in full, because we prefer, out of courtesy, to exercise the power only in part. We declare the district system shall prevail, and be uniform all over the United States; but we leave to the State Legislatures the carrying out of the law in detail.

Is there any thing disrespectful in this? Is it less disrespectful than to assert the whole power, and exercise it, without any courtesy to the States? Upon what principle of policy, of affection, or of propriety, could a State set up the standard of opposition to the exercise of an express power conferred on the Federal Government?

The case of Tennessee was referred to the other day. That State, at present, is without representatives in this chamber; and is it not as imperative on the State to send Senators as to send Representatives? But it is left to the State itself to decide on this matter, although it is as much within the province of the Federal Government to require that State to send Senators as to send Representatives. Suppose the State of New Hampshire should decline to carry out this law, and refuse to send Representatives to Congress. What then? Was not that a subject of full as much interest to New Hampshire as to the Federal Government? The Federal Government did not claim to have the power to compel New Hampshire to send Representatives. Whenever it came to such a crisis as that, if there should be a general movement of the kind, it would be an evidence that the power of cohesion no longer existed: there would be an end to all mutual duties and obligations.

With regard to the enumerated powers of Congress, it was a plain case that these powers might be either dormant or active; they might be subject to laws to assert and carry them out, or they might lie in abeyance till asserted by laws of Congress. If in abeyance, the States might use them till they were superseded by a law of Congress asserting their exercise on the part of the Federal Government. The States had the reserved right to their use till demanded by the Federal Government. He next alluded to the arguments on the other side, made by the Senator from Alabama yesterday—that it was all visionary to expect the representation of minorities. This was a monstrous doctrine; no such state of things could exist.

Mr. BAGBY explained that he had said minorities could not, and would not, in great political

questions, be represented. He asked the Senator from Kentucky if the party lines in his State were drawn?

Mr. MOREHEAD said he believed they were pretty much as in other States.

Mr. BAGBY asked the Senator if, in a great political question—not with regard to private rights, but public rights—a question between the majority and the minority—he would feel bound to conform his votes in this chamber to the will of the majority or of the minority of his State?

Mr. MOREHEAD observed, that he would answer the Senator's question without hesitation. In any great political question between the majority and the minority of his State, he would religiously conform to the will of the majority. In great public questions, he should be thus governed; but in private rights, he would be uninfluenced by party motives, and he would as faithfully represent the minority as the majority.

Mr. BUCHANAN observed, that if he thought any remarks he had to make would prolong the discussion so as to prevent the bill being advanced on its passage to-day, he would not say a word. He would ask the Senator from Georgia whether the discussion was to be carried any further.

Mr. BERRIEN could not say; he would not interfere with the course the Senator should think proper to pursue.

Mr. BUCHANAN then proceeded, and enforced the following points:

1. That this provision, requiring the State Legislatures to divide the several States into single Congressional districts, ought not to have been embraced in the present bill. It was the imperative duty of Congress, under the constitution, to apportion Representatives among the several States, according to their respective numbers. It was necessary to the very preservation of the Government that this duty should be performed. If it had been the intention of the framers of the bill (which it certainly was not) to have defeated this purpose altogether, they could not have devised any better means to accomplish their purpose. Suppose twenty Senators must vote against the bill, because they deem the provision unconstitutional: if five more should vote against it, because they deem the ratio too small, or too great, or for any other reason, this apportionment bill is thus defeated; and we shall have no apportionment of Representatives among the States. The subject of districting the States ought, therefore, to have been kept distinct from the apportionment of Representatives.

2. Admitting that Congress possesses the power over the whole subject, can we exercise it, by issuing a mandamus to the State Legislatures, directing them what legislation they shall adopt? or must not Congress pass the law, and execute it by its own authority? The governing principle of the framers of the constitution—the very key which unlocks its meaning—is,

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that the enumerated powers conferred upon Congress are to be executed by Federal, and not by State authority. The system of requisitions upon States existed under the old Confederation; but the States neglected or refused to obey these requisitions. It was for the purpose of enabling the Federal Government to act by its own authority directly upon the people, and not upon the State sovereignties, that the Federal Convention was called together. You now propose to direct the Legislatures of sovereign States how they shall act, just as you did under the old Confederation. These Legislatures must exercise their own discretion; and if they solemnly believe your law to be unconstitutional, they cannot vote for carrying it into effect, without violating their oaths. The principle has been admitted by all, that Congress cannot direct a State Legislature what law it shall pass; but the fact is denied that this bill contains any such mandate. This appeared to him to be too clear for argument. The bill was as positive in its language as it could be; and the penalty annexed for disobedience was, that the States should have no representation in Congress. If, then, you desire to establish the district system, do it under your own authority—which you have a right to do; but do not command the States to do it for you.

The third point made by Mr. BUCHANAN was, that, although Congress possesses the constitutional power to district the States for the election of Representatives, if it will carry out the whole process by its own authority, yet, under existing circumstances, it would be a great abuse to exercise this power.

All the dangerous collisions which have ever existed between the State and Federal authorities, have arisen from the exercise of doubtful and dangerous powers by Congress. This is an attempt to interfere with what immediately concerns the dearest domestic institution of the States—their discretion as to the mode in which they will elect their own Representatives to Congress. So jealous were our fathers in this particular, that seven of the State conventions which ratified the constitution solemnly protested against the exercise of this power, unless to perpetuate the Government itself. Does any such necessity exist now for interposing? Have the States neglected to perform their appropriate duties? Has any complaint come up to us from the people on this subject? Not one. We now propose to legislate, not for any existing evil, but for evils which may hereafter exist, but, for the present, are confined to the imagination of Senators. Mankind are too much governed. This dangerous power ought never to be exercised without necessity. Why, then, interfere?

Mr. B. then proceeded to defend Mr. WRIGHT against the attacks which had been made upon him by Whig Senators. He said, if you pass this bill, the Legislatures of the different States may consider it, as he did, unconstitutional. How can they try the constitutionality of the

bill, in a constitutional manner, but by providing a different mode of electing Representatives from what this bill prescribes. The Representatives thus elected will present themselves to the House, and demand admission. That House is the only tribunal on earth which can decide the question. If several States should pursue this course—and some of them must pursue that course, for it is now too late to change their laws—it would involve the country in great confusion, and subject it to imminent danger. The Senator from New York, then, made no threat; but he merely said, under such circumstances, the House of Representatives would long pause before they would reject Representatives thus elected by sovereign States.

The large States have never complained that a few of the small ones elect by general ticket. In a political view, they counterbalance each other. The general-ticket system is gradually growing into disrepute in public opinion. It will wear out of itself, if you would leave the subject alone. But your very legislation may arouse this slumbering lion. If you carry this provision by a strict party vote, it will probably, ere long, be repealed by a party vote. Congress may then go still farther. The people of Pennsylvania will think that they ought not to exercise less political power in the House of Representatives than New Jersey; and they may insist upon the general-ticket system to correct this inequality. If left to themselves, they will remain content with the existing system.

He concluded by solemnly appealing to the Senate not to exercise this doubtful and dangerous power, when no necessity existed for its exercise.

Mr. TALLMADGE conceived that if there ever was a question agitated, in this or the other House, free from doubt, this was that question. If there had been a doubt on his mind, the debate on the subject would have dispelled it. To him, it was now perfectly plain that the law was both constitutional and expedient. He did not design to recapitulate the arguments adduced in support of the constitutional question; but he would submit his views in relation to one or two points. The constitution allows the States to make regulations in relation to the time, manner, and place of holding elections, and Congress may alter the regulations of the States.

If he understood the Senator from Pennsylvania, he denies this right of Congress.

Mr. BUCHANAN interposed to say that he had made no such denial.

Mr. TALLMADGE. Well, then, he understood the Senator now to concede the right of Congress to alter the time appointed by the States for holding elections; to alter the place of holding elections; or to alter the manner of holding elections. This being conceded, he did not conceive how it could be contended that Congress had the discretion to exercise the power in part or wholly.

He held that, whatever time, manner, or place Congress may think fit to appoint for holding elections, the States are bound to conform—it is their duty. A Legislature which refuses to do this, violates not alone its duty to the United States, but its duty to its own State. But he was in favor of exercising this power, at present, as far only as to single districts, but no further; because he thought it would be most satisfactory to a majority of the States not to have double districts. He held that it was altogether expedient for Congress to pass this law now; and if it was passed, he would undertake to say that the people of his State would obey it. He denied that there was any disposition in that State to question the power of Congress in this matter. New York hesitated long about coming into this Union; but it was not on any question of this power; it was wholly on the ground of having to give up her immense imposts. He would not say that he did not know that New York would or would not obey this law; for he did know that she would not hesitate—she never would be so recreant to her duty as not to perform it, knowing that it is enjoined by the constitution.

Mr. WALKER said he would occupy the Senate but a very short time, to answer one of the observations of the Senator from New York. The argument of the honorable Senator was, that Congress had the power of fixing the place for the election of members to Congress. Let this be granted. Congress may undoubtedly do so; but when Congress does so, they must do it specifically, and not issue their mandate to the State Legislature to fix that place. No, sir; the law must be complete within itself, and it will then execute itself, and will require no intervening power. Let us put an analogous case; and I call the attention of the Senator from New York to it. Will the Senator from New York say that, provided Congress pass an act declaring that the elections shall be held at such place as the Legislature shall establish—will the Senator say that the State Legislature would be bound by it? This is precisely analogous to the present case. Admitting the power of Congress to exist to pass such a law, yet, by leaving that law imperfect, and to be completed by the action of the State Legislature, it amounts to little better than if they passed no law at all. It is, in truth and in fact, a mere nullity. And no districts being made, no elections can take place by districts. We do not command the State Legislatures, for we have no power to command them. Now, suppose Congress had passed a law declaring that the time of holding the elections should be on such day in the month of October as the State Legislature might determine. There being no day fixed until the intervention of the State Legislature, provided that State Legislature omit or refuse to comply with the mandate of Congress, the law is imperfect and cannot execute itself. You cannot compel the State Legislature to obey your mandate; and, as your law cannot

be executed by halves, a power which is vested in Congress cannot be executed in part by the State Legislature.

Mr. EVANS, in reply to the arguments of the Senator from Mississippi, that Congress never had passed a law prescribing certain bounds of time or place of holding elections, but requiring the States to fix the precise time or place within the prescribed bounds, referred the Senator to the law of 1792, prescribing the time for electing electors for President to thirty-four days preceding the first Wednesday in December.

TUESDAY, JUNE 7.

*The Apportionment Bill.*

The question pending, when the Senate adjourned on yesterday, was the motion of Mr. WRIGHT to amend the bill.

Mr. WRIGHT said no one could be more sensible than himself that an apology was due to the Senate for again troubling them with any remarks. He should not have done so, had he not found himself unconsciously, and unexpectedly, made a nullifier in the course of this debate. He took exception to the application of the term to himself—at least according to his understanding of its meaning. He had been compelled, in the course of a short political life, to assume many political appellations, and he had never very strongly resisted any of them; but he had been tenacious of the privilege of applying his own definition to them; and it was so in this case. Notwithstanding it might seem to many in the Senate that he had made himself a member of that political body whose denomination was Nullifiers, yet his friend from South Carolina (Mr. PIERCE) had read him out of church; for it appeared that his nullification was not of the right sort. If, therefore, the term was to be applied to him, he must be permitted to give it his own definition. In the early part of this debate he had undertaken to discuss the question then involved; and he should avoid, as much as possible, repeating the arguments he had then used. Yet he would be compelled to glance at the substance of them. It would be remembered that the proposition before the Senate at that time, was on the alternative that the States were either to be divided into single congressional districts for the election of Representatives, or they were to be permitted to elect them by general ticket. He had avowed at that time, and very frankly, that he would sustain the amendment of the Committee on the Judiciary; because, if Congress were to lay down a rule of legislation for his State, he desired that there should be as much latitude in the rule as possible; and he preferred having two alternatives to having only one. After considerable debate, however, the latter failed, almost by a unanimous vote of the Senate—only three Senators, besides the chairman of the committee, he believed, voting for it. They had, then, left only the provision made by the House of Representatives; and at

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a moment when the debate upon that provision had assumed such an aspect as endured the subject with a very deep interest to himself—an interest which led him into the use of language, perhaps, rather too strong. He had not failed, however, to derive very great amusement from the debate which had occupied the Senate for two or three days, since the somewhat impetuous remarks which he had made at that period. His remarks had been elicited thus: For some two hours before the vote was called for, the Senate had been addressed by the Senator from Maryland—not in the frank, open, and undisguised manner which the Senator from South Carolina had since used, but using arguments calculated to produce a certain result, without acknowledging the true purpose of those arguments. And what were they? That this was the peculiar occasion to characterize and define the boundaries of power between the large and the small States of this Union; and he added, substantially, that the former must be bound and fettered to prevent them from being dangerous members of the confederacy. Well, (pursued Mr. W.,) I would have borne, I believe, with great patience, this argument; because I have been very much accustomed to listen calmly to all arguments in this body; and, from the very condition of the body, it is somewhat natural that arguments of an extraordinary character should be sometimes made; but when I add to this, that it was argued—not that the Senate, not that Congress should bind these large and dangerous States; but that Congress, by its sovereign order, should compel the States to bind themselves, I was, I confess, a little impatient under the argument; and I now regret that I was so. I met the case, however, with perfect fairness then, and I intend to meet it now in the same spirit; because it is now avowed, by the Senator from South Carolina, (to use his own phrase,) that this is a war waged by the small States upon the large ones—a war, not in the sense of a war of arms, I admit; but a political warfare, to diminish what he considers the dangerous political power of the large States. Well, sir, I would much rather that this war had been waged in another forum, (inasmuch as it respects one of the constitutional rights of the people of the States,) where the people are appropriately represented. But I have no right to complain of its being waged here—none whatever. I do not complain. It is one of the duties of the Senate to act upon each proposition which comes here from the Representatives of the people; and no Senator is in fault for expressing his views clearly and truly as to its nature. And it was worthy of the honorable Senator's candor to characterize it as he did; because it is the true aspect of the question as it is presented to us, although I do not for a moment presume to imagine that it is so regarded by all its supporters. So much, sir, as my apology for making the petulant remarks which I did; and I do not offer it as a justification, for I feel unfeign-

ed regret at having been led to make those remarks. But, sir, I have been not a little surprised that, since that unfortunate occasion, the debate has been carried on very much—so far as arguments have been offered to sustain the proposition—in one aspect of the matter, on what has been assumed to be my admission of the powers of Congress. That admission has been assumed by the Senator from Kentucky as the foundation of his argument. I do not know what precise terms I may have used upon that occasion, but I know what my meaning and intention was. I saw, or thought I saw, a manifest disposition, as well here as in the debate upon this subject elsewhere, to put the question upon the technical question of constitutional power. I did not choose to rest it there, because I did not think it was the strong, practical, and unanswerable ground. I did believe, and do now, that it was an attempt to exert a power which those who formed the constitution, and those who adopted it on the part of the States, never dreamed would be attempted under such circumstances. Of this I have not the least doubt; and, to prove it, I exhibited the proceedings of the conventions of several of the States. I was sure that I should be answered as I was. I knew very well the arguments which might be employed; and I anticipated them, by stating that I did not produce the proceedings of those conventions for the purpose of disproving that which has been made a singularly offensive expression—the technical existence of the power; but for the purpose of showing the true spirit and meaning of the instrument; and that, under the true construction of the constitutional duties of Congress, that power ought not now to be exercised. Yet, (and Senators will remember that I made another point,) because I believe it would be considered by some Senators hypothetical, I made and discussed the question, whether the language of the constitution, giving to the State Legislatures the power to regulate the times, places, and manner of holding elections, involved the power of determining whether members of Congress should be elected by congressional districts, or by general ticket; and whether the very construction of the language was not clearly this—that they should have the power of determining the places where the elections should be held; the circumference within which the citizens should come to the same polls; the manner in which they should vote; and the manner in which their votes should be received, and all other regulations respecting the holding of elections. This was the question which I raised. I said, and I candidly repeat, that I doubt whether the contemporaneous construction of the powers of Congress, as shown in the proceedings of the State conventions, would justify the conclusion that it was a power which Congress ought to exercise. But the Senator from Kentucky said I had admitted the technical power of Congress to pass this bill. Well, sir, I naturally said I did not deny

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the technical power to pass the bill; but I did, and do, deny that, in the shape in which it came from the House of Representatives, it would have no force or effect if passed into a law. This is what I said upon this point; and the Senator found it convenient to base his argument upon this admission, as he called it, of the power to pass the bill.

Mr. TALLMADGE remarked that his colleague had displayed much of the ingenuity for which he was so distinguished. He says Congress is bound to three great principles—their duty to the constitution, to the States, and to the people. If he means that Congress owes any duty to the people, paramount to its duty to the constitution, or in any sense conflicting with their duty to the constitution, he denied the proposition. The constitution points out the mode in which the thing now proposed to be done is to be done. If the whole power of holding elections is comprised in the times, places, and manner of holding elections, the constitution says the States *shall* exercise it; for they are to prescribe the times, places, and manner; and they are obliged to do it until Congress chooses to act. When Congress, in conformity with the constitution, takes the matter up, and makes or alters the regulations of the States as to time, place, or manner, the power of the States is superseded to that extent.

Mr. T. reiterated his former arguments in support of the power thus conferred by the constitution on Congress to make or alter the regulations of the States; contending that this covered the whole ground, and justified, to the very letter, the clause in the bill now under discussion.

He took the regulation of the times, of the places, and of the manner of holding elections, distinctly, with a view of showing that this regulation, being for convenience left in the hands of the State Legislatures, under the condition as specified—namely, that they *shall* make the necessary regulations—the express power was equally declaratory, that Congress *may* make or alter such regulations; and this, he contended, Congress had a perfect discretionary power of exercising in part, or to any extent it might conceive necessary.

He then referred to the sensitiveness evinced by his colleague, (Mr. WRIGHT,) in the conclusion of his remarks, in which the Senator had said, in allusion to him, (Mr. T.,) that it would be well if he had known less of the doctrines of the Hamiltons, and more of the Livingstons and the Tompkinses of his State.

[A remark was made, that his colleague did not say “known.” On which Mr. TALLMADGE observed, “Well, what did the gentleman say?”]

Mr. WRIGHT observed, that what he did say was, that if the gentleman had drunk less deeply of the doctrines of Hamilton, and more deeply of the doctrines of the Livingstons and Tompkinses, he would not have assumed that

resistance to the exercise of this power by the Federal Government would be a blot upon the escutcheon of the State of New York.

Mr. WALKER considered the second section of the clause of the bill now under discussion, nothing but a direction to the Governors of the States, in which the general-ticket system prevailed, to assemble their Legislatures in extra session, to repeal their own acts providing for the election of their Representatives in Congress.

But in some of those States the old apportionment gave them the same number of Representatives that this bill will give—whether under the ratio chosen by the House, or that substituted by the Senate. Those States may not have any extra session of their Legislatures before the election of Representatives; and if they elect the members of Congress, it must be under the old law of their Legislatures; yet this bill says, the law must be altered. Would not this present a new and irreconcilable difficulty? In his own State, the meeting of the Legislature is biennial, and the people are opposed to yearly sessions. At their last session, they provided for the election of their Representatives by the general-ticket system. Before they can be again convened, the election must take place; but this bill says the Governor must convene the Legislature, to repeal the law. It was his conviction the Governor would not convene the Legislature for the purpose. If he do not, will that law be repealed? Can an order from Congress to alter a law have the effect of altering it? Is the law altered by a mere order to alter it? No: it can only be altered by a law of Congress, actually districting the States. A mere mandate to alter a law does not alter the law; and the law being still in existence, the State has every right to elect its Representatives under its existing law, and Congress cannot refuse to recognize them.

Mr. CUTHBERT observed, that the people of Georgia were to assemble on the first Monday in October, to elect the Representatives of the State. This law is to affect only those States in which the general-ticket system prevails, to whom it must be a most offensive exercise of power, and on whom alone the expense of extra legislation falls. It is an offensive and hazardous step. He would propose a suspension of this clause till the States have had time to assemble in their regular way.

Mr. LINN concurred with the Senator from Georgia, who had anticipated all that he had intended to say; and, for the purpose of testing whether time would be given to the States, as soon as the motion of the Senator from New York should be disposed of, he would offer an amendment, exempting the State of Missouri from the operation of the law until after the next meeting of her Legislature.

Mr. BERRIEN stated, that the people of Georgia had exercised the right of choosing their Representatives by the general-ticket

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system since the beginning of the Government. It was a system to which they gave the preference by unanimous assent; and, therefore, he felt it to be his duty to advocate their right to preserve that system as long as they conceive they can be best represented by it.

But in the course of this discussion, gentlemen, contending for the right of the States to decide, themselves, upon what system they should hold their elections and send their Representatives to Congress, had taken grounds which were revolting to his judgment. He could not doubt the power which the constitution confers on Congress. It seemed to him to be a power written plainly on the face of the constitution. But he conceived it to be given primarily to the States, and ulteriorly and provisionally to Congress.

He examined the positions taken by the Senator from Alabama, (Mr. BAGBY,) and the Senator from New York, (Mr. WRIGHT,) contending that the position of the Senator from Alabama was untenable, namely—that the only constitutional mode of electing was that by the general-ticket system. The qualification made by the Senator from New York did not virtually alter the position. This position Mr. B. proceeded at some length to controvert, at the same time denying that this was the first time—as some of his friends imagined—that such a doctrine had been brought forward. He presented the fact to the consideration of the Senator from Alabama—that the second section of the first article of the constitution provides for the election of Representatives by the people; and the third section for the election of Senators by the Legislature.

The Senator had presented a very startling and ingenious sophism in his next position—that, although Congress had the same right over the manner of electing Senators as Representatives, it could not direct the Legislature of a State to pass a law districting itself, so that one portion should elect one Senator, and the other portion another Senator; and if it could not do this, it could not direct them to pass a law districting their State for the election of Representatives.

But, startling as this proposition seemed at first sight to be, its fallacy was apparent on close examination. The fact had only to be considered, that the Legislature of a State is a political incorporation, having no integral fragments capable of independent action or separate existence; but, in the popular body, there is a different principle—it is that of individuality, existing in the natural body, of each integral part, separately called upon to act. The Senator's position may be an argument plausible in its aspect—startling from its novelty—and embarrassing to minds not accustomed to investigation; but it was one which dissolved before a logical examination. It was like the argument brought forward against miracles—that it is contrary to experience that the order of nature can be departed from to

such an extent as is necessary to admit of miracles. But it is not at all contrary to experience that testimony is deceptive and false; therefore the inference is irresistible, that the testimony of miracles, contrary to the order of nature, must be false. Miracles, however, did exist; so the reasoning falls to the ground.

The sophism consisted in judging of miracles, which were things out of the order of nature, by the standard of experience, which had to be superseded before miracles could exist; and the very existence of which implied the absence of experience. Mr. B. applied his illustration in refutation of what he conceived to be the sophism in the position relied upon by the Senator from Alabama and his friends.

The powers had been treated as if they were concurrent in the State Legislature and the Federal Legislature. This was not, certainly, his view of the subject. But, for the sake of argument, supposing that they were concurrent, he contended that the power of the State should yield to the concurrent power of the General Government. It was, however, argued that the Federal Government cannot delegate its power to the Government of the States. In referring to analogous cases, he showed what had been the decision of the courts. It was, that because Congress, as it might do, did not render the jurisdiction of its own courts paramount in all things over the States, the power of the State judiciary was not subject to the mandates of the Federal judiciary in many cases; this was evidence that the Federal Government only chooses to exercise a portion of the power, which it might have exercised wholly, if so disposed.

The right of the people to be represented depends upon themselves; and if those they intrust to make the regulations necessary to enable them to enjoy this right, fail to make the regulations, they will have to suffer the inconvenience of not being represented; which is the only punishment that can properly be spoken of. The Senator from New York inquires whether the people are to be deprived of the right, by the malfeasance of their Legislatures? The answer is, that it is in consequence of the neglect of their own agents; and to them they must look, and they must make them accountable. Disposed as he was to preserve to the States the right of exercising this power, he could not recognize the doctrine that there is no authority to exercise the power in the constitution. What he contended was, that the Congressional power was not a primary one, but an ulterior and provisionary one. His proposition was, that it was only with this understanding the constitution was ratified by the States; and, however it may exist on the face of the constitution as a literal power, yet he maintained that good faith—more important to the Government than the exercise of the power—should impel Congress to refrain from the exercise of the literal power.

He inferred the intention that it was not to



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be exercised, not alone from contemporaneous evidence, but from the very words of the instrument itself. The first phrase of the section confirms the primary power in the States; the ulterior and conditional power is given to Congress. That this was the view taken of it by the framers of the constitution, was deducible from contemporaneous evidence of an abundant character. He quoted the opinions of Mr. Madison and Mr. Hamilton, as presented in the *Federalist*. They argued that the power of Congress was secondary, not primary; and that its existence at all was only necessary for its moral influence, and not for its exercise. He also quoted Judge Story's *Commentaries*, and those of Chancellor Kent, as well as others, in support of this view of the subject.

The consequence of exercising the primary power by the Federal Government was foreseen; and to guard against this, it was made only a secondary power. It was foreseen that, if the primary power was given to Congress, the Federal Government would have to provide Federal machinery, and go into the States to exercise a supervisory and offensive power, derogatory to their sovereign dignity.

The experience of fifty years was in favor of not exercising the secondary power in subversion of the primary power. To exercise it would be a violation of the good faith upon which the constitution was ratified by States which never would have ratified it, had the understanding been that Congress was to exercise the primary power.

It is argued that the minority cannot be represented by the general-ticket system. What minority had called upon Congress for redress? May not the aggregate minorities be as great in a State, under the district system, as under the general-ticket system? No such protection of minorities is invoked at the hands of Congress; the assumption is entirely gratuitous.

Fearful pictures have been drawn of the consequences of the consolidated party influences in a combination of large States; but there was nothing in reality in these terrors. The growth of population was antagonist to all combinations. What has never happened in the infancy of this Government, never can happen in its maturity. It is said now is the accepted time; but will it not be time enough to act, when facts, not apprehensions, demand the interference of Congress?

He enumerated the differences which exist throughout the several States, with regard to the time, manner, and place of holding elections. The avowed object of this change is to provide uniformity in all the States; yet it can only produce uniformity in a single particular, leaving all the other diversities just as great as they ever have been. The end proposed will not, therefore, be attained.

He did not anticipate resistance on the part of the States; but if they did resist, it would remain for Congress to act itself; and the only

action it could take would be to refuse admission into the other branch to any Representatives not elected according to this law. Congress, in that case, would be placed in an antagonist position to the States. The States would be in an attitude of hostility to the General Government. Should a vacancy occur in the representation of a State, the Governor alone has the right of issuing a proclamation to provide for the election of a Representative to fill the vacancy.

He would not depict the consequences which might result from the dissent of a large number of the States. They might be, although favorable to the district system, yet aroused by law, asserting a power the exercise of which would be a violation of good faith. They might reverse their system.

Mr. BAYARD did not propose to make a speech; but had merely risen to make a single remark in reference to an argument made use of by the Senator from New York, (Mr. WRIGHT.) The clause in the bill which he proposes to amend, merely says that each State shall be divided into a number of districts equal to the number of members to which the State is entitled. It does not say each district shall have a full ratio; and that was a complete answer to the notion of fractions, being unrepresented. It is not true that any portion of a district goes without a Representative. The first thing is to fix the proper number to form a House of Representatives; and then to apportion them according to respective populations among the States. The Senator's amendment, therefore, is evidently unnecessary. He asked the Secretary to read the proposed amendment. [It was read.] This was quite unnecessary. There was nothing to prevent the State of New York from apportioning its forty districts into whatever divisions of population it pleased.

Mr. WRIGHT was very glad to be instructed by the new view which the Senator from Delaware had taken. He says there is nothing to prevent New York being made one district or ten districts, notwithstanding her 800,000 inhabitants. Now, if such was the latitude left by the law, he would be better pleased to see the districts settled by Congress at once, without calling upon the Legislature of New York to do it.

Mr. SMITH, of Connecticut, asked at what point the national legislation was to begin, and the State legislation to be left off, if the power is concurrent, and yet the Federal power is paramount?

Mr. BERRIEN explained, that the assertion of the concurrent power by the Federal Government would be only partial. If it related to time, the State Legislature would have primary power to exercise over place and manner; so if Congress exercised the power over place, the State would exercise the primary power over time and manner; so also in relation to manner. The primary power was paramount till

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the secondary power of alteration interfered, and made the power of the State to carry out the law secondary.

Mr. SMITH contended that Congress did not act at all in this bill; it only orders the States to act. This is stopping where Congress began—it is an order without the force of a law, and therefore is the same as no action at all. If Congress begins to do what it may do, it has a right to do what it undertakes, or not at all.

The question was called for on Mr. WRIGHT's amendment.

Mr. ALLEN would vote for this, or any other amendment that would make this section less objectionable; but would afterwards vote to strike out the whole section, no matter how amended.

The ayes and nays were then taken, and resulted as follows:

YEAS.—Messrs. Allen, Bagby, Benton, Buchanan, Calhoun, Cuthbert, Fulton, King, Linn, McRoberts, Sevier, Sturgeon, Tappan, Walker, Wilcox, Williams, Woodbury, Wright, and Young—19.

NAYS.—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clayton, Conrad, Crafts, Evans, Graham, Henderson, Huntington, Ker, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Preston, Rives, Simmons, Smith of Indiana, Sprague, Tallmadge, White, and Woodbridge—29.

## HOUSE OF REPRESENTATIVES.

TUESDAY, June 7.

Mr. CLIFFORD presented the resolutions of the Legislature of Maine, in relation to the pay and mileage of members of Congress.

Also, the petition of A. L. Hobson and others, praying for the establishment of a mail-route.

*Bill Extending the Operation of Tariff Law.*

Mr. FILLMORE, by instructions of the Committee of Ways and Means, reported a bill to extend for a limited period the present laws for laying and collecting duties on imports. Read twice, referred to the Committee of the whole House on the state of the Union, and ordered to be printed.

[N. B. The bill extends the operations of the present tariff laws to 1st August next.]

*West Point Academy.*

On motion by Mr. FILLMORE,

The House took up the bill making appropriations for the support of the army and of the military academy for the year 1842; the question being on concurring with the amendments made yesterday in Committee of the Whole,

Mr. INGERSOLL said he should now move to recommit the bill to the Committee on Military Affairs, or to any other, as the House might determine, with instructions, such as were contained in the identical resolution by which the army was reduced in 1821.

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Mr. FILLMORE inquired if this motion was in order.

The SPEAKER was understood to reply in the affirmative.

Mr. REYNOLDS desired to amend the motion of the gentleman from Pennsylvania, (Mr. INGERSOLL,) by the addition of instructions to inquire into the expediency of altering or changing the laws establishing the West Point academy—or, in other words, to abolish it. My only excuse and justification for presenting this subject to the House is, that I am clearly satisfied that the military academy at West Point was established in violation of the Constitution of the United States, and that the policy and principles on which it is conducted are hostile to the free institutions of the country.

Entertaining these sentiments, I consider it my duty to my constituents to present them to this House for their consideration. And I am not alone in believing the academy at West Point ought to be abolished, or so regulated as to be made acceptable to the public. The Legislatures of the States of Tennessee and Ohio have both passed resolutions, requesting their members in Congress to appropriate no more money for the support of this institution; and each State has condemned the academy in the most severe terms. Those resolutions passed the General Assembly of Tennessee on the 26th November, 1833; and those in Ohio on the 8d March 1834. The resolutions of the State of Ohio use this bold and energetic language:

"That said military establishment ought to be abolished," and "is partial in its operations, and wholly inconsistent with the spirit and genius of our liberal institutions."

In the preamble to the resolutions passed by the General Assembly of the State of Tennessee, they express themselves in the following strong and forcible manner. Speaking of the constitutional power, they say:

"Such power is wholly unknown to the Constitution of the United States, and at war with those principles and maxims which should ever be held sacred by a free and enlightened people."

Am I not sustained in my position by the solemn judgments of two free and enlightened States of this Confederacy? These decisions were not pronounced without reflection and consideration, but were the result of solemn and serious deliberation in both States. Moreover, I have no hesitation in saying that a great majority of the people of this whole Union entertain the same sentiments as expressed by the two States above mentioned; and would rejoice, with exceeding great joy, if the academy were abolished. So soon as the facts in relation to its institution are laid before the people, and a discussion is had on them, the institution will crumble to the dust.

Mr. Speaker, there is no person who appreciates education more than I do. I know

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it not only elevates man to the highest state of happiness and perfection of which human nature is susceptible, but it is also the foundation of our national existence. Education not only makes man that elevated "being, holding large discourse, looking before and after," but it also enables him to know his rights, and thereby govern himself according to the principles of free government.

The system of primary schools has received, on all occasions, my most hearty support. No matter in what situation I may have acted, either in public or private life, I have never ceased my exertions, feeble as they may have been, to promote education amongst the people. I give to it the greatest value and consideration. Nevertheless, although it may be of such inestimable value, yet we must advance it by the rules of justice, and the constitution of the country.

Religion, although it is the greatest blessing to man, may yet be carried to such extremes that it ceases to be religion—becomes fanaticism, and a curse rather than a blessing to the people. So with the military academy, when it is established in violation of the constitution, and its operations are contrary to the principles of equality.

In giving the Constitution of the United States that reasonable and limited construction which confines the General Government within the meaning of that instrument, no power can be discovered to authorize Congress to establish the military academy. No one pretends there is any express provision in the constitution, authorizing Congress to create this institution; but the power, if any, must be raised by construction and implication.

It is considered at this day unwise and dangerous for the General Government to exercise powers by implication and construction, which are not expressly granted by the constitution. If Congress will enter the field of "common defence and general welfare," there is no place to stop at; and, in fact, the constitution would be entirely subverted. The General Government is confined to only a few general objects of legislation, which are expressly granted by the constitution. Amongst these subjects, on which Congress have the power to act, I am clearly satisfied the military academy cannot be found. This was the opinion of Mr. Jefferson, while he was Secretary of State, in 1798, when this subject was first discussed in the cabinet of President Washington. In the fourth volume of Jefferson's Works, page 499, Mr. Jefferson's opinions are there recorded as follows:

"It was proposed to recommend the establishment of a military academy. I objected that none of the specified powers given by the constitution to Congress would authorize this."

In the same page, Mr. Jefferson again states, that "I opposed it, as unauthorized by the constitution."

President Washington submitted the propriety to Congress of establishing the military academy or not, as they pleased, without any recommendation whatever at this time.

Mr. Speaker, the honorable member from New York, (Mr. WARD,) in a speech, stated to the House that "the Democratic party adhere to a strict construction of the constitution. They take nothing by implication, and nothing that is not plainly expressed in the grant of power to the General Government. Hence they have ever opposed the establishment of a Bank of the United States; for there is nothing in the terms of the constitution to authorize the incorporation of such an institution. Hence, also, they were opposed to the system of internal improvement by the General Government, and to the exercise of other powers not clearly conferred by that instrument upon Congress." This is the general doctrine of the party, as far as I am informed on the subject. This being the judgment and decision of the party, will not the same judgment apply to the military academy, and abolish it? If either of the above subjects be unconstitutional, the academy must follow the same fate. I hope the gentleman (Mr. WARD) will apply his own doctrine to the academy, and join me in doing the people the best service we can perform—which is, to abolish the military academy at West Point.

On the 7th December, 1798, President Washington, in direct terms, recommended the establishment of a military academy, and in the same message he also recommended "a national university." "A primary object of such national institution should be," says the message, "the education of our youths in the science of government."

No one venerates the name and character of General Washington more than I do. He is venerated and honored by all the nations of the earth; and his fame, no doubt, will endure forever. Yet, "to err is human." With the most pure and patriotic motives, he recommended a national university to the consideration of Congress, "to educate our youth in the science of government." I presume no one, at this day, will contend that Congress has the power to establish a national university for the objects mentioned in the message. There is no more constitutional ground for the military academy, than for the national university; and none exists for either.

Although many of the greatest sages and patriots that ever existed in this country have yielded to the constitutionality of this institution, yet it is the birthright of every free American citizen to construe the constitution according to the dictates of his own conscience. No one in this House is sworn to support the constitution according to the opinions of Washington, Jefferson, or other great men, but according to the sober and deliberate dictates of his own conscience. Humble and feeble as I may be, I will give to the constitution such ex-

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position as will satisfy my own conscience, and allow the same privilege to all others. Many of the American Presidents, with the purest motives, have signed bills incorporating banks, for internal improvements, &c., which have been considered, on experience and reflection, not to be authorized by the constitution. May not the same be the decision of after-times in regard to the military academy—that *it is also unconstitutional?*

Mr. Speaker, the academy is, in my opinion, not only unconstitutional, but it is also founded on principles which render it extremely obnoxious to the people. This institution is established and conducted in direct hostility to all the principles of equality and free government, which are always held sacred by an enlightened people.

According to the report of Major-General Macomb, the military academy was established by act of Congress of the 16th March, 1802. Before that time an attempt was made to create a military school at West Point for the regiment of artillerists and engineers. This school progressed slowly, and with but little success. By act of the 28th February, 1808, one teacher of the French language and one teacher of drawing were added to the institution; also one artificer and eighteen men, to aid in making practical experiments. Ten cadets were then authorized for the engineers, and forty for the artillerists.

The act of the 12th April, 1808, authorized the appointment of twenty cadets for the light artillery, one hundred for the infantry, sixteen for the cavalry, and twenty for the riflemen.

The act of the 29th April, 1812, authorized the appointment of cadets between the ages of sixteen and twenty-one, not to exceed 250 in all. Cadets are to serve five years, unless sooner discharged. The same law provides that cadets when they graduate, are candidates for a commission for an office in the army, and if no vacancy exists at the time, the cadets are continued in office by brevet, and attached to the army as supernumerary officers. The last act added one professor of natural and experimental philosophy, with one assistant; one professor of mathematics, with one assistant; and one professor of engineering, with one assistant, to the institution.

This short history of the academy will show the principles on which this institution is founded. I may also add to the above history, the following facts, taken from a report of the Secretary of War, of the 28th January, 1831, and confirmed by an excellent report made by the honorable Mr. Smith of Maine, dated March 1st, 1837, to the House of Representatives. By an estimate of the last five years, (from the 28th of January, 1831,) the supply of the army from the corps of graduated cadets has averaged about twenty-two annually; while those who graduate are about forty—making an excess of eighteen cadets each year. The number two hundred

and fifty are always in the academy. This makes the annual proportion of graduates to the whole number entered in the academy fall short of *one in six*; and the number annually entering the army to the number entering the academy, falls short of *one in eleven*.

In regard to the expenses of each cadet entering the army, the above two reports state "that, in 1831, the cost of education of each cadet entering the army was six thousand dollars." This calculation is based on the whole amount of money expended on the academy, and on the whole number of cadets entering the army; so that the expenses to the Government, by this mode of education, is six thousand dollars for each officer before he enters the public service.

Mr. Speaker, it will be seen, by these acts of Congress, that an order of nobility is established at West Point. The cadets educated at this institution at the public expense, without rendering any equivalent to the public for the same, fall precisely within the meaning and definition of the privileged classes of Europe. The meaning of the word "nobility" is also applicable to them in this country, as well as in nations where that class of people is tolerated by law. I find the meaning of the word defined in the 2d vol., p. 158, of William Leggett's writings, and the application will be readily made to the cadets at West Point.

"A noble is defined by English writers, to mean a person who has a privilege that raises him above the commoner, or peasant. On the continent, the word *noble* is less restricted than in England. The French academy thus define the word: 'one who, by birth, or by patent from the prince, makes part of a distinguished class in the state.'"

The cadets are raised above "the commoner," and are made by law "part of a distinguished class in the state." They are fed, clothed, and supported at the public expense, without rendering any equivalent, and therefore fall directly within the class of nobility, which the constitution says, shall not exist in the United States.

By the provisions of the act of Congress, the cadets have a complete monopoly of all the offices of the army of the United States. No person can be appointed to an office in the army, if he be not a cadet graduated at the West Point academy.

This presents a most serious consideration to the people. Is it right to exclude all the American people, no matter what be their qualifications, and confine all the offices in the army to young men educated at the military academy?

In this Republic monopolies are odious. They are at war with all the principles of equality and free Government, which should always be held sacred by the people. The good sense of the people has condemned a bank and other monopolies. But the monopoly of the army offices is more extensive, and

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more dangerous to the liberties of the people, than all the others together. All the force and power of the whole army are under the control of these *cadet officers*. In peace, the army has an immense controlling influence: but in war, it is irresistible and all-powerful. Nevertheless, all this power and influence are in the hands of a complete monopoly. Is this right in a country of freedom and of equal rights? We hear it asserted that a standing army is dangerous to the liberties of the people; but how much more dangerous is it to have all the offices in the army controlled by a monopoly!

The cadets composing this monopoly are secluded from any intercourse with the mass of the people—are educated apart from the people, and form a distinct and separate class in the community. These cadet officers are appointed for life, and are not dependent directly on the people for support. They cannot, under these circumstances, have any congenial or common feelings with the people; and are a monopoly dangerous, at the head of a large standing army, to the liberties of the country.

Is it possible that the cadets educated at the military academy will have more merit, and possess better qualifications for the army, than can be found amongst *all the other people* in the Union? No man will believe that forty young men, graduated annually at the West Point academy, possess better qualifications for military command than all the rest of mankind in the United States.

These young men are selected between fourteen and twenty-one years of age—when they are so young that their talents and capacity for military command cannot be known. The natural ability of the youth, at this tender age, cannot be ascertained; and all the education on earth, without it, cannot succeed in forming a great military commander. Moreover, the Secretary of War cannot be acquainted with all the young men throughout the Union between the years of fourteen and twenty-one; and, in making the selections for the military academy, he must, therefore, be guided by the information of others. Through the medium of this information and recommendation of others, is it likely—is it probable—that the poor, and those without friends and in obscure situations, are likely to be recommended and appointed cadets to the academy? The influential and wealthy will be better known, and more likely to be appointed; while the poor and obscure will be overlooked. This is human nature, and will more or less operate on the appointing power.

Mr. Speaker, will it be safe, or will it be wise and prudent, to commit the destinies of this nation, so far as its military operations are concerned, to these cadets alone? In time of war, the rights and liberties of the people are dependent in a great degree on the army. It is the right arm of the nation's defense; and is

it wise and prudent to exclude all the nation from any command in the army, except the cadets, and confine the main defence of the people to these young men?

Much glory, or much dishonor to the country, is always depending on the honorable and elevated bearing of the army. In war, it is the main pillar of the nation; almost every thing—our safety, national honor, &c., &c., are committed to it. And is it wise, I again ask, to exclude all the military talents of the country from the service, except the graduates of West Point?

The principles on which this institution is founded destroy that patriotism and ambition to become qualified to fill stations in the army, that are so necessary to be encouraged in a republic. No person who is not the favorite of West Point will deem it important to qualify himself for the military service of the country, as he has not the least hope of entering it. All the honors and emoluments are monopolized in the hands of the cadets at West Point. This policy will destroy that patriotic emulation among the people that is so essential to the existence of a free Government. But the oppression and positive injury inflicted on the private soldier in the army are incalculable.

This is one principal reason that it is so difficult to fill the ranks of the army in time of peace. No matter what good morals, and generous and meritorious conduct throughout his life, a private soldier may observe in the army—it matters not what glorious and brilliant actions he may perform in the tented field for his country—it is quite immaterial. Should the private soldier in the American army survive the most gallant and hazardous enterprises, performed for the honor and glory of his native country, yet that *country*, by the operation of the military academy, has not the power to reward his patriotic services, and place him in any rank in the army according to his merit. He is excluded from any office in the military service, no matter what may be his merit.

And by whom excluded? By a young cadet, just graduated at the public expense—never having performed, at the time, the least service for his country. Perhaps this veteran soldier bears the honorable marks of wounds received while he was defending the rights and liberties of the people; and he is excluded from honor and office in the army, by a stripling reared at the public expense, without performing any service whatever. This injustice cries aloud for redress.

Many of the greatest military commanders that ever existed took their rise from the ranks of the army, and from humble and private life. History is replete with these facts, in all ages and in all countries. In the Revolution, and since, in our country, memorable and distinguished examples are known to all. Is it right to exclude merit from the army more than any other service in the Government?

Where is the inducement for a private

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soldier to either enter the service, or perform brilliant actions in it, if merit be not rewarded?

Out of forty graduates each year, twenty-two enter the army; and eighteen are also attached to it, as supernumerary officers, receiving pay from the public, because they had the good fortune to be educated at the public expense. Thus it is that the privates in the army, and all others, are excluded from any office in the military service of the United States. This is wrong; and the country will not sustain it when the facts are made known to the people.

With equal propriety might the United States educate young men for the various other offices in the Government, as for the offices in the army. The young men at West Point cannot be considered a part of the army, but only as preparing for it; and the Government might, with the same justice, prepare young men for the bench of the Supreme Court, for Congress, or for the office of President itself. It would be a large stride towards monarchy to educate young men for the Presidency. The electors might be constrained to make a choice from those *educated* young men for President, as well as the President is forced to take all the officers of the army from the graduates at West Point. Congress has no more power to make a law in one case than in the other.

Mr. Speaker, I cannot see any necessity at this time for the military academy at West Point. When it was first established here, there might have been some necessity for it. The country was at that day thinly settled, and the means of education not so abundant as at the present time. All the arts and sciences, and all the substantial education, which is had at West Point, are now taught in almost every section of the Union; all the improvements and education of the youth of the country, that will be necessary to qualify them for any office, either civil or military, in the Government, can be easily procured, and will be embraced by them if proper inducements are held out to the public. When the offices of the army are open to competition, a generous emulation will exist among the people to fill them; merit and competency will be the basis of preferment. Under this new order of things, citizens will qualify themselves to fill these offices with honor to themselves and advantage to the country. Then, and not before, individuals will fill the offices in the army, having the confidence of the people.

We see by the statement of the Secretary, already alluded to, that there is less than one to eleven that become officers in the army to those entering the academy. Thus it is, that so many young men receive their education at this institution, at the public expense, and then retire from the public service to private avocations.

The honorable member (Mr. LINGGOLD, of

Pennsylvania) suggests that there are three Reverend bishops in the church, who received their education at this institution. This, with various other cases that might be shown, proves the perversion of the objects of this establishment from the original intention. Is it just and right that the public should educate eleven young men for their private benefit, for one for the army? And this one cadet costs the Government about six thousand dollars when he enters the army.

I pretend to know nothing about the manner of conducting this academy. All I complain of are the laws establishing it; they all should be repealed, and the academy abolished.

Mr. Holmes, of South Carolina, rose and said: What was the main objection of the gentleman to the academy at West Point? It gave young men education without expense; and, if what the gentleman had said was true, this education was only offered to the sons of the nobility or aristocracy in this country. Such was not the fact. How many men were there at this time engaged in constructing railroads, and carrying on great civil works, who never could have obtained a competent education but at West Point? Again: the gentleman had said that the academy was of no use, because it bred up officers before it was known whether they would be fit for the service. The gentleman objected to training up men to the profession, for fear some might not prove competent to discharge its duties. Really, to his mind, this seemed to be about as much as saying that, before a child should be sent to school, he should be allowed to grow up to manhood, in order that it might be seen to what profession he was adapted.

In spite of the sneers against the aristocracy and the gentility of this institution, he imagined there would be found sufficient comprehension in the country to know that, notwithstanding its existence, we should be in no danger from a standing army; that our dependence would ever have to be upon the militia of the country; and that it was necessary to have a school which would diffuse throughout the country the military science, so that at any moment it might be brought into practical operation. The argument of the gentleman, that this academy would make priests, and furnish them with the military art, so that they could command the church militant to the imminent danger of the people, he thought was a mere spectre. He could not himself apprehend any danger, even though the people, when called out on the occasion of a sudden invasion by the Indians, were headed by a priest, as in the time of the Crusades.

He hoped, in conclusion, that the House would not concur with the gentleman in his opinion of the inefficiency of the academy; but would appropriate such a sum of money as would adequately defend the nation, so that the whole people might repose in safety under the shadow of our great country.

THURSDAY, June 9.

The Hon. NATHAN APPLETON, of Boston, elected to supply the vacancy occasioned by the resignation of Mr. WINTHROP, appeared, was qualified, and took his seat.

*The Tariff Bill.*

On motion by Mr. FILLMORE, the House resolved itself into Committee of the Whole on the state of the Union, (Mr. McKENNA, of Pennsylvania, in the chair,) and resumed the consideration of the bill to provide revenue from imports, and to change and modify existing laws imposing duties on our imports, and for other purposes.

Mr. SALTONSTALL moved to amend the bill, by striking out all after the enacting clause, and inserting, in lieu thereof, the tariff bill reported by the Committee on Manufactures, with the exception of the last clause.

Mr. J. CAMPBELL rose to a point of order. His point of order was, that, in the Committee of the Whole, the bill, having been first read through, was taken up by sections; and the first section being under consideration, it was not in order to move to strike out the entire bill—as well as the clauses under discussion, as the clause under consideration.

The CHAIRMAN decided that the motion of the gentleman from Massachusetts was not in order.

Mr. SALTONSTALL then moved to strike out the first section, which was under consideration, and substitute the entire amendment which he had before offered.

Mr. FILLMORE then commenced his speech to the committee; and, after giving utterance to a few words—

Mr. J. CAMPBELL rose and said the motion of the gentleman from Massachusetts (Mr. SALTONSTALL) was a mere evasion of the rule. The gentleman from Massachusetts had moved to strike out a single clause, and offered to substitute for it an entire bill.

The CHAIRMAN decided it to be in order. He said the gentleman could substitute any thing for the clause he proposed to strike out.

Mr. J. CAMPBELL appealed from the decision of the Chair.

The CHAIRMAN decided that he was out of order, the gentleman from New York (Mr. FILLMORE) having obtained the floor and commenced his address before the objection was taken.

Mr. FILLMORE, then, as the exordium to his speech, entered at great length into the difficulties which the Committee of Ways and Means had had in the preparation and perfecting of the measure now before the committee. He said it was a question of the greatest magnitude that could come before an American Congress. Nothing short of the question of peace or war could be more important than the question of the mode of raising the necessary revenue to carry on the Government. It was also a subject that was complicated in its character, and he therefore regretted that the House should

have refused authority to the Committee on Manufactures to collect such information as the settlement of so important a subject rendered necessary. They were denied the privilege of sending for persons and papers, and they were denied the aid of a clerk; but, notwithstanding all these circumstances, it was due to the committee to state, that they had gone on and collected a mass of facts that would be found useful both to the House and to the country, though falling short of what ought to have been obtained to enable the House to consider this subject properly. He alluded to this "more in sorrow than in anger," and only by way of apology for the committee, if the result of their labors should be found imperfect. He next recapitulated the services which had been rendered by the head of the Treasury Department to the committee, and then proceeded to the all-important question itself.

In the first place, he begged to state that this was a revenue bill, intended to supply the wants of the Treasury; and he therefore should consider it in that point of view. And the first question which presented itself for consideration, was, What was the amount of revenue that would be required to carry on the Government? That question had been rather fully considered by the Secretary of the Treasury, and he begged to call the attention of the committee to the remarks of the Secretary on that subject. In the Secretary's report accompanying his *projet*, he estimates the expenses of the Government for the year 1842, including civil, foreign, miscellaneous, and the army and the navy, at \$24,424,358 95; and for the other permanent appropriations for the year, \$922,000. There was then, in addition to the amount required to pay the public debt, an estimated amount of between \$25,000,000 and \$26,000,000. The Secretary then estimated the amount that would be required on the part of the Government for the payment of debts, and other liabilities; which made the aggregate demand on the Treasury for the present year \$33,822,000. The Secretary then went on to estimate the expenditures for the years 1843-'4, and for three years he made the aggregate amount \$98,242,000—that sum, of course, including the amount required to pay the Treasury notes outstanding, and other debts contracted.

If, however, they passed from these opinions of the Secretary to examine some collateral facts, for the purpose of ascertaining what amount would be necessary, they would find that, during the four years of Mr. Van Buren's administration, the annual expenditures, independent of all payments for the public debt, were near \$28,000,000; and if the experience of the past was to afford a guide for the future, they might calculate the annual expenditures of the Government hereafter to be between \$27,000,000 and \$28,000,000, independent of the amount requisite to pay the public debt now existing.

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But there had been so much discussion in reference to the probable expenditures of the Government for some years to come, both in this body and the other branch of Congress, that he might be excused from going into details. He might, however, remark, that the estimates of the various gentlemen who had investigated the subject, and which they showed by tables and figures, ran up from \$18,000,000 to \$26,000,000; whereby it was shown that, where intelligent men differed so much, it must, to a great extent, be found to be a matter of conjecture. But, from what he had seen for the last few days, he thought there was a spirit of reform at work, that, however much he might regret its destructive character to some of the essential establishments of the country, if carried out, might diminish the expenditures between \$8,000,000 and \$4,000,000 below what they had been for the last three or four years. The expenditures, therefore, might be reduced to between \$23,000,000 and \$24,000,000. If, then, to this be added \$3,000,000 to pay the interest on the public debt, the annual expenditure would be about \$27,000,000; and this amount would be necessary to carry on the Government. He should assume, then, for argument's sake, that the annual expenditures would not exceed \$24,000,000, with the addition of \$3,000,000 to pay the interest of the public debt; and then the next question that presented itself was, How should this amount be raised? The constitution, in its grant of legislative powers on this subject, gave the power to lay taxes, to collect duties on imports, and, in the third place, to raise the money by excise. Now, to which mode would they resort? It had been contended that the best mode was by direct taxation; and this idea had had a general circulation in the country. That they had the power to supply the treasury by direct taxation, could not be denied; but was any gentleman, after a full examination of the subject, willing to resort to that mode of supplying the wants of the treasury, except in the direst necessity? They had tried it once, and there were gentlemen who had intimated their willingness to try it again. As early as 1798—when, he believed, there was some apprehension of war—an attempt was made to supply the wants of the treasury by direct taxation; and a law was passed, directing the valuation of land and negroes, for the purpose of levying a direct tax. But he desired the committee to look at the number of officers that would be spread over the country, to make the requisite valuation. For even when that was once done, they must take into consideration that the value of land and negroes, and other property to be taxed, was constantly changing in value; and what a tremendous power, then, it would give the appointing power of this Government. The requisite number of officers for this purpose would be like the frogs of Egypt.

He had taken occasion to look into the

amount of money thus collected by direct taxation, and he found, since the commencement of this Government, leaving out small items, that there had been collected, for the purpose of paying the debts of the Government and its accruing expenses, the sum of \$913,000,000. And from what source did they suppose that it had come? The question had ever been asked, from what source can the money be drawn with the least oppression to the people? And, in answering such a question, the experience of fifty or sixty years was not to be overlooked. It would be found that \$746,000,000 were from duties levied on goods imported.

In answer to a question from Mr. RHETT, he said he did not include the amount of the Post Office revenues, which Mr. RHETT said, during the last ten years, had averaged from three to five millions of dollars. The Post Office paid its own expenses out of its receipts; and he (Mr. FILLMORE) was only considering the mode by which they should raise the requisite amount to defray the ordinary expenses of the Government, and to pay existing debts.

He then proceeded with his enumeration of the sources whence the receipts had been drawn. Twenty-two millions had been raised by excise, and only twelve millions by direct taxes. He stated the amount which had been received from the public lands, and added that dividends and bonuses from that odious monster—the United States Bank—amounted to \$20,000,000; being \$3,000,000 more than had been collected by direct taxation. He had merely alluded to these facts to show that the experience of more than fifty years had demonstrated that direct taxation was not the mode by which the wants of the Government could be supplied.

The next question, then, was, whether they would supply the treasury by excise? He had heard gentlemen—very intelligent gentlemen—both within and without the walls of that House, speak of that as a very eligible mode by which to supply the wants of the Government; but he asked if any gentleman there was then prepared to resort to it! The very name of excise was odious in Great Britain, where it was practised; and though they found in the constitution a power to raise revenue by excise, he was surprised to find that the word had not been used in this country. And why was it so? A duty in the shape of excise was recommended during the two first years of our Government; but the name was so odious, that the Administration that ventured to impose the duty, did not venture to use the name. He found a report was made by Mr. Secretary Hamilton, in which, instead of excise, he called it "internal revenue." There was a great deal in changing a name.

And what had been the history of raising the revenue of a country by excise? Mr. McCulloch said of that mode of raising revenue in Great Britain, that it was a name given to duties and taxes on such articles as are produced and consumed at home; while custom



duties were those duties which were levied on imports from other countries. It was a duty on their own manufacture, the produce of their own labor, and consumed in their own country; and hence everybody would perceive that it would be necessary that they should have a swarm of officers to see who was engaged in the manufacture of any excisable article.

Another consideration was the complicated legislation which was necessary to such a system; for if they imposed a duty on articles manufactured by their own citizens, they prevented them coming fairly in competition with the citizens of other countries—unless, indeed, they deducted the excise duty when the articles were exported; and, consequently, at every port of exportation there must be an examination, to see if the articles had paid an excise duty into the treasury, that, if so, the amount might be refunded. Another consideration was, that in Great Britain the excise duties were often evaded by the producer, notwithstanding the utmost vigilance in a country where the population was thick; but when it came to a country like ours, which is spread over thousands of miles, everybody must see it would be evidently impossible safely and fully to carry into effect a law imposing excise duties. And if not, what would be the consequence? Why, the duty would be a reward for exporting them; and it would be paid to the producer or exporter, instead of finding its way into the treasury.

But another consequence which had grown out of the system in England—which was, perhaps, not less deleterious to the morals of the country—was, that the legislation had been such, that the excise duties refunded often exceeded the amount paid. Take, for instance, sugar or glass. By the law of Great Britain, the duty on glass, to enable the producer to meet the citizens of other countries in the market of the world, was to be refunded when the article was exported.

He then called the attention of the committee to another instance of the impolicy of excise duties. The Committee of Ways and Means had had many gentlemen before it, to give information as to the operation of the various duties upon articles manufactured and exported. They represented that the manufacturer of sugar could, by means of the protection afforded him by the excises and our tariff, afford to sell sugar for six cents per pound. In answer to an inquiry as to the cost of the raw article, it was stated that the manufacturer had to pay eleven cents for the same article. It was then asked, how he could afford to buy the raw article for eleven cents, manufacture it, send it across the ocean, and then sell it for six cents? The apparent absurdity was explained thus: By the laws of England, an excise duty was imposed upon sugar and molasses, and a drawback allowed on all exported. It so happened, however, that the amount received by way of drawback exceeded the amount paid the Gov-

ernment by way of excise. There was, also, a residuum, after taking out the refined article; and this the manufacturer sold as sugar-house molasses, exporting it and receiving a drawback, although they had paid no duty upon it. In this way they were enabled to sell the refined article for six cents, when the raw material cost them eleven.

He read from Blackstone's Commentaries a brief history of excise duties in England, where they were first imposed, in 1648, upon ale, beer, cider, bread, &c. Both parties, however, agreed that they should continue during the war; and Blackstone declared their very name was odious to the people. Their enforcement required the severest regulations in England; and if they had to be attended with such severe pains and penalties in that small country, what would be necessary here?

The recent movement in the British Parliament showed that every expedient for raising revenue had been exhausted in that country, and the Government was now compelled to resort to that last of measures—the income tax. Here was the experience of England to prove that imposts were not efficient. He begged gentlemen who considered them so, to read the report of Mr. Randolph, when it was proposed to supply the treasury by means of imposts, and when Pennsylvania was in a state of rebellion. That report stated the cost of collecting imposts at thirty-five per cent. Was any one prepared to sanction that rate?

If, then, as he had endeavored to show, the system of imposts could not be advantageously adopted, there was but one other mode in which revenue for the public treasury could be raised—and that was, by imposing duties upon foreign imports, as contemplated in this bill. Of the nine hundred millions of revenue collected by our Government, seven hundred and forty-six were received from duties. He thought no further argument was necessary to show that this was the best mode of raising revenue to carry on our Government.

The next question was, whether the bill was sufficient to supply the wants of the treasury. Here he would state that it was, in substance, the *projet* of the Secretary of the Treasury; though altered in some of its details, and a section added at the end, by the committee, to provide for future legislation. The amount estimated to accrue was about the same as that according to the Secretary's bill. The Secretary took the imports of 1840 as the basis of his calculation, and estimated the receipts as follows:

Total receipts from duties - - -	\$32,608,000
Expenses of collection and drawbacks -	5,160,000
Net revenue - - -	27,448,000

He regretted the Secretary did not give the articles in detail, on which drawbacks were to be allowed, and the amount of the different items making up the sum which had to be deducted from the gross receipts. All goods were

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liable to be exported, and to have a drawback. Thus, there was always in reality less revenue collected than there appeared to be.

But, although the Secretary had calculated with care the amount to be received from the operation of this bill, and though he conceded that the lowest year had been taken as a basis, yet he thought the House could not altogether rely on the calculations which were submitted to it. The amount of imports into the country in 1840 was \$107,000,000; and the average amount of the seven preceding years, \$141,000,000. Though there was this large discrepancy between the two amounts, and it might seem that the imports would always be equal to the standard of 1840, he still feared the bill could not be relied on to produce the necessary amount of revenue. The excessive importation which had happened during a few of the past seven years, was owing to various causes; such, for instance, as the great fire in New York, which consumed so many goods that their places had to be supplied by fresh importations. During some of those years, prices were high and money abundant; and therefore the value of the imports was swelled considerably. At present, however, importation of goods was checked. Where was the man who did not wear his coat longer now than formerly, and who did not economize in every way he could? Such would inevitably be the case until prosperity was fully restored in the country. Yet it was thought that the receipts from customs would amount to \$27,000,000 per annum, from the operation of this bill. If any one would look at the receipts, and see how, during past years, they had varied from thirteen to twenty-four millions, he must be satisfied that it was impossible to make an accurate calculation of the receipts according to any one year, but only by a series of years. Assuming, however, that this bill would produce from twenty-five to twenty-seven millions, it was unnecessary to discuss it further, unless gentlemen could show that it might be amended so as to produce more.

He thought it needless to discuss the question of protection. As a measure of revenue only did he desire the bill to be considered. Though gentlemen might seek a reduction of some of the duties imposed, on the ground that they afforded protection to our manufactures; he yet thought it right to protect, when it could be done advantageously. He would not legislate for Europe, but for the interests of his own country, which he preferred to all the world. If all restraint upon trade was done away with here, as well as elsewhere, and we could be sure of a continuance of peace, it would be decidedly more advantageous for each country to produce what it could best, to sell its productions where it could get most money, and to buy where goods were cheapest. This was a beautiful and a correct theory, if we could have it in operation.

But it was said by the advocates of free

trade, that the duties on imports gave the preference to the manufactures of the East. This was not so. Suppose a high duty is placed on cotton-cloth, to protect the manufacturers, so as to prohibit its importation altogether: the consequence would be that many men would enter into the business, on account of the supposed profit. Competition would then become so great, that the protection would amount to nothing. These duties, then, would not be for the benefit of the manufacturers only, but of the whole nation. He could not now say when it was proper to encourage, and when not; yet he thought it unwise not to encourage necessary articles, and thereby make ourselves independent in case of war. There were many articles of clothing and of food indispensable to the country, for which we would find it economical to pay rather more now, in being able to obtain them at hand when war came upon us, and our ports were closed to foreign importations. He illustrated the idea, by referring to the army and navy, upon which the nation expended so much in time of peace, that they might be ready for war.

There was another case in which he thought we should give protection to our own productions—and a case, he regretted to say, which occurred but too often. It was, when our productions were excluded from the markets of other countries by foreign legislation. Our agriculturists, occupying a boundless territory, were willing to send out their productions to England, and to receive in return various articles which they wanted, and were obliged to have. But England—who supplied them with cloth, and other manufactures—refused to receive the products of their labor, and compelled them to pay specie for what she furnished them. He thought the shield of our Government should be interposed to protect these interests, and meet restriction with restriction. He did not deny Great Britain the power to impose these restrictions. It was a national, a sovereign right, under which she acted. This country, however, should, by countervailing legislation, create that market which she refused to grant.

He appealed to experience to show that all—even those who advocated a tariff solely for revenue—must discriminate between different articles. On costly articles, for instance—articles which were small in bulk, and could be concealed, as watches—a small duty was always imposed, because a high one admitted too great opportunity of fraud. England and France both admitted diamonds duty free. The same principle applied to jewelry and laces, which might be easily smuggled in without paying duty. There was another rule, too, by which discriminations were made, and which he expected many of the anti-tariff men here would follow. It was in reference to articles produced in our own country, on which a high duty could not be levied with advantage; because, if a high duty was placed on such, the

consequence would be that the home production would supply the market, and the foreign be entirely prohibited. It was, indeed, a strange phenomenon which we now saw in England—a leader in Parliament coming forward and declaring that no duties should be imposed above 20 per cent. Considering the past history of England with respect, this circumstance reminded him of the saying of Solomon, who, having passed through a long life of excesses, at the end of it declared that *all was vanity, vanity*. [Laughter.] He had observed the cautious reserve of Sir Robert Peel in relation to the duty on sugar. He would explain the reason of this reserve, and show why it was that Sir Robert Peel, though proposing reductions on other articles, said nothing about this:—England was too cold to produce sugar. There could be no competition at home; and, therefore, as it must be brought in, it might be taxed to any extent. This was why the Premier did not explain. From the English report, it appeared that £22,000,000 was collected from duties on imports in 1840. It was a remarkable fact, that one-half of the sum was derived from three articles—tea, tobacco, and sugar. If the high duties on these articles could enable England to produce them, she would do it. But it was impossible. The tobacco of the gentleman from Virginia would not be taxed 1,000 per cent. if the soil of England could produce that article.

In the present bill, he thought no duty was too high to defeat the object of providing a revenue adequate to the wants of the Government. If any gentleman could show that any article was taxed too high, he would vote for a reduction in the duty.

MR. ROOSEVELT inquired whether some of the rates of duty proposed by the bill were not so high as to diminish, instead of increasing, the revenue of the country?

MR. FILLMORE said it might be the case, but he was not aware of it. He would not go for such a high duty on foreign manufactures as would flood the country with our own, and thereby break them down; but would advocate the lowest duty consistent with their prosperity. He called the attention of the committee to the fact, that the revenue bill of 1832, as modified by the bill of 1833, had not produced enough of revenue to carry on the Government. It was a fact, that the revenue from duties equalled the expenditures of the Government but one year. He would state the amounts of receipts from customs, together with the amount of public expenditures for each year, from 1834 to 1840:

	Receipts.	Expenditures.
In 1834,	\$16,000,000	\$18,000,000
1835,	19,000,000	17,000,000
1836,	23,000,000	29,900,000
1837,	11,000,000	31,000,000
1838,	16,000,000	31,000,000
1839,	23,000,000	25,000,000
1840,	18,000,000	22,000,000

Here was the result of the wise legislation by which our duties were reduced; showing that, during seven years, our receipts from them were but \$122,000,000; whilst the cost of the Government during that period was \$176,000,000; making an average excess of \$7,000,000 per annum. From this, he concluded that the greatest difficulty would be encountered in arranging the duties so as to get the highest amount of revenue.

In relation to protection, he would add, that a distinction should be drawn between protection at first and afterwards. It was a voluntary act on the part of the Government to encourage manufactures at first—an act which might be determined on, or not, according to the pleasure of those having possession of the Government. But when protection came to be considered proper, and was afforded, the faith of the nation was pledged; and no blow should be struck at the manufacturers, who commenced their enterprises calculating upon the continuance of protection from the Government.

Another question was, as to the mode in which these duties should be levied. It was known to the House that there were two modes of imposing duties: one was on the value of the article, and the other was specific. Now, he was aware that there was a feeling in the community, since the adoption of the compromise act, in favor of ad valorem duties; and that many strong reasons might be given in their favor. But experience had shown that they had, at times, led to the most injurious results; and therefore, in the tariffs of every country in Europe, the duties were specific on almost every article. One of the reasons against ad valorem duties, and in favor of specific duties, was, that the former offered strong inducements to fraudulent invoices. Indeed, it had become an every-day practice to make out two invoices—one for the custom-house, and the other for the consignee; and the consequence was, that not only was the revenue defrauded, but the fair trader was greatly injured in his business. Under all the considerations applicable to the subject, he had come to the conclusion that specific duties were preferable.

There was one other subject to which he wished to call the attention of the committee. The Secretary of the Treasury had recommended that the duties should be collected in cash; and the committee had come to the conclusion to adopt that system. Mr. F. then went on to give the reasons why the cash system should be adopted; and, at the same time, showed the disadvantages of the credit system, which, he said, had involved us in debt and embarrassment. He was, however, in favor of a modified warehousing system, by which some indulgence would be extended to the importer. Mr. F. then explained the warehousing system of Great Britain, and showed the extent to which it might be judiciously carried in this country, answering the objections that had been urged against it. After a few more re-

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marks on the subject of wool, the duty on which the committee proposed to put at 30 per cent., Mr. F. concluded his remarks.

## IN SENATE.

FRIDAY, June 10.

*The Apportionment Bill.*

The special order of the day brought up the apportionment bill, engrossed for a third reading.

The bill was then ordered to a third reading; and having been read the third time, and the question now being, "Shall the bill pass?"

Mr. WALKER demanded the yeas and nays on that question; which were ordered. The question was put, and the bill was passed in the affirmative, as follows:

YEAS.—Messrs. Archer, Barrow, Bates, Bayard, Choate, Conrad, Crafts, Evans, Graham, Huntington, Ker, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Preston, Simmons, Smith of Indiana, Sprague, Sturgeon, Tallmadge, White, and Woodbridge—25.

NAYS.—Messrs. Allen, Bagby, Benton, Berrien, Buchanan, Cuthbert, Fulton, King, Linn, McRoberts, Rives, Smith of Connecticut, Tappan, Walker, Wilcox, Williams, Woodbury, Wright, and Young—19.

## HOUSE OF REPRESENTATIVES.

FRIDAY, June 10.

*The Provisional Tariff.*

Mr. FILLMORE again moved that the House resolve itself into a Committee of the Whole, for the purpose of taking up the bill to extend, for a limited period, the present laws for laying and collecting duties on imports.

After a few remarks from Mr. PICKENS and Mr. WISE, the motion was agreed to; and the Clerk read the bill, as follows:

A Bill to extend for a limited period the present laws for laying and collecting duties on imports.

*Be it enacted, &c.,* That all laws existing in force on the first of June, eighteen hundred and forty-two, regulating and fixing the amount and rate of duties to be levied and collected on goods, wares, and merchandise, imported into the United States, and prescribing the mode of collecting the same, and all provisions relating thereto, shall continue and be in force as they existed on that day, until the first day of August, eighteen hundred and forty-two, and no longer; any thing in the act entitled "An act to modify an act of the fourteenth day of July, one thousand eight hundred and thirty-two, and all other acts imposing duties on imports," approved March second, eighteen hundred and thirty-three, to the contrary in any wise notwithstanding: *Provided,* That nothing herein contained shall suspend the distribution of the proceeds of the public lands, any thing herein contained, and any thing contained in the proviso to the sixth section of the act approved fourth September, eighteen hundred and forty-one, entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights," to the contrary notwithstanding.

The committee negatived a motion to strike out the words "first day of August," as the

limit of the extension of the present laws, the proposition being to leave the period indefinite.

Mr. FILLMORE moved that the committee rise, and report the bill to the House.

Mr. WISE was very willing to do so, because it was the best mode of defeating an increase of the duties for the present session.

Mr. ROOSEVELT moved to strike out the proviso. He said that proviso was not found in the bill which was reported to the House a day or two since, and its insertion appeared to have been an after-thought. This bill, as it originally appeared before the House, was simply to extend all the revenue laws to the 1st of August next from the 30th of June next. The present bill not only proposed the same object, but also provided that nothing therein contained should interfere with the operation of the distribution act. Without such a proviso, the effect of this bill would have been to annihilate the distribution law, which directs the distribution of the proceeds of the public lands amongst the States. He then proceeded to notice the operation of this law if it should be passed by Congress. He was understood to say that the receipts from the public lands, which had come into the treasury, had been used for the general purposes of the Government; and the Secretary of the Treasury would again be driven as a borrower into the market, for money to divide amongst the States; and he wished to be informed if it was the intention of gentlemen to put the treasury in that position.

Mr. FILLMORE explained.

Mr. PICKENS said when he saw the gentleman from New York move to recommit the bill to extend the operation of the existing tariff laws, a day or two since, he was satisfied there was something more behind the curtain.

Mr. FILLMORE said he should have given his reasons if he had been permitted. It was the very reason which the subsequent bill would suggest. It was, that the former bill would have prevented the distribution in July.

Mr. PICKENS said that was precisely what he was going to remark. He considered it exceedingly remarkable that this bill should have been postponed to this late period, and that it should not sooner, considering its consequences, have been brought before the House and the country. The House had gone into committee, and they were induced to believe they were about to enter upon the discussion of the tariff bill fully. But the gentleman from New York came in and moved to lay that bill aside, and to take up this bill—a proceeding utterly unprecedented in the history of legislation since he had had a seat in this House. The honorable gentleman went into some statements of these laws, and of the bill now proposed; and he said he should like to know if, as the gentleman from New York intimated, there was none of the money to be distributed in the public treasury; and, if there were none there, if they would compel the Government to borrow the money for distribution amongst the States.

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Mr. GWIN offered an amendment, which he hoped would be accepted by the chairman of the Committee of Ways and Means, and put an end to the debate entirely. It provided for a suspension of the law, distributing the proceeds of the sales of the public lands, until the 1st of August.

Mr. CUSHING desired to understand the operation of this bill, upon other and collateral questions. The third section of the act of 1833 provided for a reduction of duties to twenty per cent., after the 30th of June, 1842. What would be our condition, after that time, without any intermediate action on the part of Congress? At the close of the third section of the act of 1833, it was provided that all duties should be paid in ready money. That was definite. But it was further provided, that all duty on imports should be collected according to their assessed value, at the ports where they were entered, according to such regulations as should be provided by law. The duties were to be assessed according to the home valuation. How was this to be ascertained? There was no existing law, and no treasury machinery by which the collectors could be guided. The law of 1833 contemplated some action on the subject prior to the 1st of July, 1842. No act has yet been passed; neither the custom-house officers, nor the Secretary of the Treasury, nor the importing merchants had any guide, according to which they could act. These facts showed that the House should seriously determine whether any duties were to be collected or not. It was certain that some legislation would be necessary; and, acting upon this view, the Committee on Manufactures, and the Committee of Ways and Means, had both reported bills for the establishment of a permanent tariff. Should either of those bills be passed before the 30th of June, the necessity of further action would be superseded. But the bill now before the committee contemplated the contingency of no action by Congress before the 30th of June. It was a virtual acknowledgment that it would be impossible to pass a revenue bill before that time; and that the effect of the present bill was to extend the present laws until the 1st of August. There was, then, an imperative moral urgency to enact some tariff law. Without it, the treasury must be without money. In the second place, our market would be flooded with foreign merchandise. There might be \$25,000,000 of them in New York now. The owners of these goods might export them to some near port in a British colony, and receive the duties which they had paid in the way of drawback. Then, in one week after the 1st of July, they might bring the goods back and enter them free. This might, or might not, happen; he stated the case as one of the possible consequences of a want of legislation. Following in this train, there was a third consequence of the failure to act upon the tariff; and that would be the entire prostration of the protective interest. Not

only would the interest dependant on a protective tariff be injured, but it would be entirely prostrated and overwhelmed by the torrent of foreign productions which would come into our ports.

With these three effects of inaction—a bankrupt treasury, our country flooded with foreign productions, and her protective interests prostrated—staring the Representatives of the people in the face, there was a strong constitutional and moral obligation upon them to do something for the benefit of the country. The effect of the present bill was to take away the urgent necessity for action before the 30th of June. It merely gave another month to debate that great question of the enactment of a permanent tariff.

But this bill related to other questions beside that of the tariff. He referred to its operation upon the distribution law. The first section of that law provided that, from and after December 31st, 1841, certain things should happen; among those things, was the distribution of such sums as should be received into the treasury from the public lands, between December and June, to the States. Therefore, if nothing occurred before that time, the distribution would take effect. Was there any thing in this bill to prevent the accomplishment of that object? The sixth section of the distribution law provided that, if the tariff should be so altered as to be inconsistent with the compromise act of 1833, no distribution should be made. On these premises, how did the first part of the bill now before the committee apply? It was obvious that it changed the existing facts—the *status in quo*; and its effect, in that part, was to repeal the distribution law.

But the bill contained a proviso, that “nothing herein contained shall suspend the operation of the law directing a distribution of the proceeds of the sales of the public lands,” &c. The effect of this was to keep the distribution law in force. Every one was aware that this law had other relations besides those of a financial character. It was based upon political considerations. After some further remarks upon this point, he proceeded to reply to the argument advanced, that the act of 1833 gave an implied stipulation that no duties should exceed 20 per cent. after the 30th of June.

The gentleman from South Carolina (Mr. PICKENS) had said he was in favor of the bill without the proviso. He did not doubt the gentleman's friendship for it in that state, for it left the tariff as it was before; and in proportion as it was agreeable to that gentleman on this account, it was disagreeable to himself. In regard to the compromise act, (about which gentlemen were in the habit of conversing as a contract,) he could not see how that was more binding upon Congress than the compromise in the distribution law, which the gentleman himself wished to overthrow.

Mr. UNDERWOOD could not agree that the distribution law was passed by means of a bargain between different interests represented on

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the floor of the Senate. He himself had voted against the proviso of that law, foreseeing the consequences which were now at hand. Such a principle as that by which the law was suspended whenever the duties on imports exceeded twenty per cent., should never have been incorporated into it. Since one Legislature had no right to bind its successors, the proviso itself might become inoperative. He had no idea that any bargain was entered into, to procure the passage of the bill, by inserting the proviso; certainly, he was no party to it, if there was.

He predicted that there would be some curious developments in the course of the debate and votes upon this bill and the amendments. In the first place, there were many gentlemen, and (he would be candid) himself among them, who would vote upon the bill so as to get the land fund for the States. He should himself vote to obtain that money, at all events—20 per cent. or no 20 per cent. If he could not get the land money without bringing down the tariff, he would do that. He would bring it down to 20 per cent., and also he would bring the \$65,000,000 worth of articles now duty-free, and subject them to the operation of the tariff. It was well known that there were three classes of articles imported through our custom-houses—those paying duties *ad valorem*, those paying *specific* duties, and a large class which were entered *free*. This last class he would embrace in a tariff, and thus enlarge the number of dutiable articles.

There was another view of the question—a view, too, which could be carried. He hoped it would be; for they were strong enough to carry it, if they would only co-operate and show their strength now. [Laughter.] There were many men in the House willing to vote for a tariff greater than 20 per cent., and thus protect the manufacturers. Many were thus situated, and were willing to help the gentleman from Massachusetts (Mr. CUSHING) with his tariff, on the condition that they should get the land money for themselves. [Laughter.] Some gentlemen said they must have protection, and others said they should vote for such a tariff as would give it incidentally. He was willing on his part. He was not ultra, but would go beyond 20 per cent., in various instances. But gentlemen must show him that the land money would be distributed. He did not wish to make a bargain, but was merely telling gentlemen these things for information. [Laughter.] He repeated, he did not wish to make a bargain; but he would watch gentlemen when they voted on these various questions. This was the second view of the question. The third was this: if the House should refuse to pass this bill, with the proviso by which the distribution law would be secured, it would prove that the free-trade, anti-protective interest had the ascendancy, and intended to adhere to their policy. He should regard

the votes given on the question. As they voted on it, so would they show their hands.

He then went on to say that it would be useless for him to debate the question upon its general principles, with a view to changing the vote of any member. He believed that, were he to speak every day in the week till sundown, he could not alter a vote. He might convince members about the propriety of duties on particular articles; he might modify their views as to some of the details; but he could not make an anti-tariff man a tariff man. The House would be engaged in a long debate; but the speeches would be intended mostly for home consumption.

Mr. JACOB THOMPSON inquired whether the gentleman would consider those who voted in favor of a repeal of the distribution law, as opposed to a protective tariff; and those who voted against the repeal, as friendly to a protective tariff?

Mr. UNDERWOOD replied that he would.

Mr. WISE, after a few remarks, observed, that if he understood the gentleman from Kentucky correctly, his first object was to increase the duties above 20 per cent., and to provide what he considered proper protection, and also to repeal the 20 per cent. clause in the land distribution bill—that is, to hold on to distribution and protection both. The gentleman's second proposition was equally important. He understood him to proclaim to the protection interest, inside of this House and out of it, that if they would not give him the repeal of the 20 per cent. clause—if they would not give him distribution, he would not give them duties above 20 per cent. [Mr. UNDERWOOD. That is right.] But he would go for cutting down every branch of the public expenditures—every branch of the public service. [Mr. UNDERWOOD said the gentleman was here wrong, and explained what he did say.] Then the gentleman will reduce the expenditures of the Government, and tax tea and coffee, in order to hold on to distribution. That was precisely what he held out to his constituents and others to be the policy to be pursued, not by the gentleman from Kentucky alone, but by the majority of the House; and the gentleman now avowed it. Now (said Mr. W.) we understand the votes that have been given at this session. Sink the navy, sink the army, sink protection, and every Government establishment—every industrial interest is to be sacrificed to one man's hobby—distribution. The people are to be taxed to distribute; the Government is to borrow to distribute; the navy, the right arm of our defence, and the army, the left arm, are to be sacrificed; and those who have heretofore professed to be *par excellence* the friends of protection, are now to be its worst enemies. New England, Pennsylvania, and every manufacturing State, are to be told that they are to have no protection, unless they will give away the proceeds of the public lands. They have

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announced to them that the main difficulty in their way, now that protection—which is incidental to a revenue tariff, and a large revenue, too—is required for the wants of the Government—that the only bugbear in the way is the land distribution bill. This was avowed—honestly avowed—by the gentleman from Kentucky; and he would hold him to it.

Mr. W. said he would go for a liberal tariff for revenue. He would vote to-day to raise the duties above twenty per cent., because the Government was in debt, and wanted money to carry on its operations; and he would do that under the existing law—the land bill—which bore on its face the declaration—the pledge—that when the duties should exceed twenty per centum, distribution should cease. He agreed with the honorable gentleman that there was no principle of legislation by which one Congress could bind its successors, except good faith. Those who devised the land distribution law enacted—did not pledge merely, but enacted—that when it should be found necessary to raise the duties above twenty per cent., the distribution should be suspended. Was there nothing, in good faith, binding the very same men who made that law, to fulfil it? Sir, the time has come when Government needs more revenue than can be collected under existing laws; when it needs so much revenue, that a revenue tariff will give that reasonable protection to our domestic manufactures, to which no Southern man will object; and while the gentleman threatened the tariff-men with a loss of protection if they did not repeal the clause of the distribution act, I, to get a repeal of that act, will go for raising the duties above twenty per cent. He might see some partial good in protection; but he could see no good—nothing but bribery, corruption, and ruin—in the distribution act. He wanted neither a high tariff nor distribution; but, though he was an anti-tariff man, he would agree to give some protection, rather than retain the distribution act. He would rather see some portion of the country benefited, than the whole country injured. He was not, however, called on to vote for protection, but for revenue; and, in voting revenue enough for the purposes of the Government, he would give as much protection as the manufacturers ought to expect.

Mr. EVERETT observed that he voted for the distribution act on the ground that the lands were the original property of the States, and because he wished to take them out of the political market. If there had been no other way of doing this, he would have been willing to cede them back to the States who gave them. With regard to the twenty per cent. clause, every consideration with him was in favor of its repeal. He would rather that this bill should not pass, and trust to the consequences, than stop the distribution. He voted for that clause because there was a necessity to adopt it, in order to pass the bill; but he gave that vote with a determination that, at the first op-

portunity that offered, he would get rid of it. He did not consider that honor or good faith required of him to adhere to a measure that had been forced on him as that was.

Mr. FOSTER understood the gentleman from Vermont to say that he voted for this proviso in the distribution act, in order to obtain the advantage of passing the law, and, afterwards, of repealing the proviso. He heard this admission with deep regret; for there was no gentleman for whom he entertained a higher respect than he did for him. He was aware that there was no law but what could be repealed, and that one Congress could not bind its successors; but, in passing that act, there was a faith pledged, that ought not to be violated. He believed there was not a man in the House, or in the Senate, that would get up and say that the distribution law could have passed without that clause. It was a contract, as well understood at the time, as any that had ever been made between individuals; and those who voted for it seemed to him to be under the same obligations to adhere to their contracts. No man believed that the bill could have been passed without that proviso. What was it? It was this, [reading from the law:] "If, at any time during the existence of this act, there shall be an imposition of duties on imports inconsistent with the provisions of the act of 2d March, 1833, and beyond the rate of duty fixed by that act, viz., 20 per cent. ad valorem, the distribution provided for by this act shall be suspended, and shall continue suspended until the cause of suspension shall be removed." Mr. F. continued his remarks at some length; concluding with the position, that the act was passed in good faith, and should be adhered to.

Mr. J. R. INGERSOLL replied at some length, contending that, if good policy required the repeal of the clause, there was nothing that rendered it obligatory on Congress to retain it. He argued that there was no contract expressed or implied; and that, unless there was a contract, (one essential ingredient of which was a valuable consideration,) no Legislature was bound to abide by the acts of its predecessor.

Mr. PROFFIT remarked, (Mr. I. yielding the floor for the purpose of explanation,) that there was a consideration—and that was, the passage of the bankrupt bill, nearly at the same time. The gentleman from Pennsylvania was not here at that time, and did not know the circumstances under which these two acts were passed; but, if he could get the floor, he would explain them all, and show that it was said in the Senate that there was a contract by which the passage of the one bill depended on the other.

IN SENATE.

MONDAY, June 18.

Mr. WOODBURY presented to the Senate the credentials of the Hon. LEONARD WILCOX, who had been elected by the Legislature of New

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Hampshire to fill the unexpired term of the Hon. FRANKLIN PIERCE, resigned.

Mr. KING suggested that, notwithstanding the honorable Senator had been heretofore qualified under the appointment by the Governor, it would be necessary for him to qualify again.

Mr. WILCOX was accordingly again qualified, and took his seat.

## HOUSE OF REPRESENTATIVES.

MONDAY, June 13.

*The Apportionment Bill.*

Mr. EVERETT moved to suspend the rules for the purpose of taking up the apportionment bill, which had been returned from the Senate with amendments; and the yeas and nays having been ordered, the question on the suspension was taken, resulting in yeas 182, nays 25.

So the bill and amendments were taken up.

The question recurred upon the motion to concur with the Senate in their first amendment, increasing the ratio from 50,179 to 70,680, and resulted in the negative—yeas 95, nays 112.

The question next recurred upon the motion to concur with the Senate in their second amendment, giving an additional Representative to fractions over and above one moiety of the ratio, and it was lost.

TUESDAY, June 14.

*The Provisional Tariff.*

On motion of Mr. W. COST JOHNSON, the House resolved itself into a Committee of the Whole on the state of the Union, (Mr. McKENNA in the chair.) The committee took up the bill to extend the operation of the existing revenue laws of the country until the 1st of August.

Mr. GILMER, who was entitled to the floor when the committee rose on Friday, addressed the committee at length in opposition to the bill. He said he should interpose no objection whatever to its passage, did he believe it to be such a bill as its title imported—to extend the operation of the existing revenue laws of the country. But he believed it to be a bill of a totally different character, and, therefore, he felt bound to trespass upon the indulgence of the committee with a few remarks. He would briefly call their attention to the circumstances by which we were surrounded, and which had brought us to our present position. It was generally considered that the compromise act of 1833 would not, on the 30th of June, yield revenue enough to pay the debts and defray the expenses of the Government, and that the amount must be increased. This must be done, the committee had been told, in one of two modes: either by increasing the number of articles subject to a duty of 20 per cent., or by increasing the amount of duty on those articles

which would have to pay but 20 per cent. according to the compromise act. It was evident that we could no longer rely upon loans. The credit of our Government was exhausted, and we were now literally brought to the necessity of raising the ways and means. This was a revenue question—one which must be looked at in all its aspects, and promptly decided. The time had arrived when, the committee was told, it could no longer postpone action, which was demanded by public faith, credit, character, and honor.

Three bills had been reported to the House, all proposing to raise an amount of revenue which their several advocates considered necessary to pay the debts, and to defray the expenses of the Government. These bills were founded upon different principles—upon protection and revenue, and upon both blended, according to the views of their advocates. He would call the attention of the committee to the fact, that they all proposed to raise more revenue than could be raised by the compromise act. But there was not time enough to act upon them before the 30th of June, which would arrive in fifteen days, when the reduction of all duties to the twenty per cent. standard would take effect. There was obviously not time enough to discuss, consider, and decide a question, which the honorable chairman of Ways and Means had informed the House, not long since, was one of the most difficult and complicated which our Government had ever been called upon to consider.

He repeated, he would have no objection to the passage of the bill, if it was in reality what, by its specious title, it purported to be. But whilst it was apparently a bill to suspend, it in fact repealed the whole revenue system, after a certain day. Its effect would be to throw the Government into chaos; for, without revenue, the Government could not be carried on. It would place the country where it was at the end of the Revolutionary war, without means and in debt. It would exhibit Congress in the attitude of repealing the only laws by which revenue might be derived. He did not wish to deal unfairly with the bill, and would, therefore, read it. He then read the bill by which the present revenue laws are to continue in force until the first day of August, "*and no longer.*" These words "*and no longer,*" he contended, would have the effect of leaving the country entirely without revenue laws. Where was the security for the bill in its present shape? The committee was told that the present laws would not be in force after the 30th of June, when the duties would be reduced to 20 per cent. Suppose the bill be passed, and the 1st of August arrive without action: would not the Government be in as bad a condition as at the end of June? But it went further than that. The words "*and no longer*" contained as positive a repeal of all existing laws, as if they had been repealed in express language.

If the chairman of the Committee of Ways



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and Means wished to obviate this objection, it was easy for him to do so. Let the bill stop in the tenth line; and then its effect would be to continue existing laws until the further action of Congress. In that case, there would be no doubt of the passage of this bill. What was its object? To allow time to Congress to deliberate upon permanent revenue laws. That object could be attained by declaring that the present law shall remain in force until further action by Congress. But he heard the honorable chairman of Ways and Means whisper across, that there might be no action on the part of Congress. He thanked him for the whisper. He wished to show that the gentleman, in this bill, gave Congress six weeks to deliberate; but if, at the end of that period, no tariff should be matured, there were to be no revenue laws. All the means of the Government were exhausted. Only six weeks remained to discuss the tariff; and yet we were called on to repeal all existing laws, unless Congress should take further action prior to the 1st of August.

Nor was this all. The bill before the committee violated the compromise acts—acts recognized by Congress as such. He was not one of those who attached a sacred character to ordinary acts passed by Congress. In the Legislature of Virginia he had declined declaring that the compromise act of 1833 was sacred. He would not declare the constitution sacred; and there was but one book or written instrument in the world to which he would apply that appellation. He would, however, say that this bill violated compacts; and the faith of man was as much involved in the defence of a compact of a simple as of a sacred character. About twelve months since, when this Congress found itself in extra session, the opponents of the land distribution bill, which was then introduced, objected to it on the ground that it would interfere with the compromise of 1833, increase the taxes, and take from the people with one hand, while it gave with the other.

The clause limiting the operation of the law to the period during which the compromise act of 1833 should not be violated, was ingrafted with the bill, as a guarantee that the consequences which its opponents foretold would not ensue. It was, therefore, a compromise agreed upon by the friends of the distribution law to secure its passage. Indeed, it was a double compromise, since it secured the former compromise of 1833. But the present bill violates both of these compromises. And gentlemen here declared they would vote for a distribution of the land fund, whether the duties on imports be 20 or 50 per cent.

He would not discuss the question, whose extravagance it was that spent the money in our treasury, and brought us to our present necessities. Our necessities existed, and were likely to put in force the clause of the distribution law which repealed itself. The question now was, whether Congress would re-enact the distribution law, without the 20 per cent.

provision; whether they would give away the land money, revenue or no revenue. Should the distribution law be re-enacted, without regard to the tax which will have to be imposed upon the people, who are to receive the money? This was the true question; and all that the opponents of distribution asked was, that its friends would adhere to the very principles on which the law was enacted. Were we to be told that there was no such thing as public faith? that, although Congress had pledged its faith in that very law against any increase of taxes, we were at liberty to disregard it?

## IN SENATE.

WEDNESDAY, June 15.

*The Florida Armed Occupation Bill.*

On motion of Mr. BENTON, the bill to provide for the armed occupation and settlement of the unsettled part of the peninsula of East Florida, having been correctly engrossed, was read the third time and passed.

*The Apportionment Bill.*

On motion of Mr. BENTON, the Senate took up the message from the House, returning the bill apportioning Representatives among the States according to the sixth census, and giving information that that House had non-concurred with the Senate in all their amendments to said bill.

The question now being on the motion to insist on the amendment of the Senate, providing that such States as have a fraction of more than a moiety of the ratio shall be entitled to an additional Representative, it was put, and decided in the affirmative—yeas 24, nays 18.

The question was then taken on the motion to insist on the amendment of the Senate, increasing the ratio adopted by the House from 50,176 to 70,680, and decided in the affirmative—yeas 80, nays 14.

The other amendments of the Senate, conforming the number of Representatives for each State to the ratio, were also insisted on; and

The Secretary was directed to return the bill to the House, and inform it of the action of the Senate.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, June 15.

*The Provisional Tariff.*

On motion of Mr. FILLMORE, the House resolved itself into Committee of the Whole on the state of the Union (Mr. McKENNAN, of Pennsylvania, in the chair,) and resumed the consideration of the bill to extend for a limited period the present laws for laying and collecting duties on imports.

When the bill was last under consideration, Mr. ROOSEVELT had moved to amend it by striking out the proviso at the end thereof.

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And Mr. GWIN had moved to amend the amendment, by adding at the end of the sixteenth line of the bill the words, "to a later period than 1st August, 1842."

And the pending question was on the amendment to the amendment.

Mr. JOHN W. JONES said: Was the proposition which had been laid down true—that, in the event of the passage of this bill, the laws in force on the 30th of June would be continued precisely as they existed? It was necessary to inquire, first, what were the laws in force on the 1st of June; and, secondly, whether it was proposed by this bill to change any of their material provisions. He apprehended it would be admitted on all hands that the compromise act was in force on the 1st of June, and had not yet accomplished its purposes; that the revenue bill of last session was also in force; and last, but not least, that the land bill of last session was still in force. Then, if no legislation should be had now, what would be the condition of our revenue laws? Why, on the 30th of June, the compromise act of 1833 would accomplish the great objects for which it was originally introduced, and all duties be brought down to 20 per cent. In contemplation of that event, what further consequences would ensue? The land law of last session would, the day after, distribute all the proceeds of the public lands received into the treasury since the 31st of last December. These would be the effects of no legislation. The compromise act would have performed all its purposes; and, in contemplation of that event, the distribution law would distribute all the proceeds of the sales of public lands on the day after.

But, legislate as proposed in this bill—enact the proviso to it which is proposed to be stricken out—and what would then be the consequences? Instead of bringing down the duties on imports, you actually keep them up beyond twenty per cent. If this be done, what, according to the land bill, must follow? Why, distribution must be suspended. What would be the consequences with this bill in operation? The distribution law would take effect; and this was what gentlemen termed leaving things precisely as they were on the first day of June.

It should not be forgotten that, in 1833, the public lands were regarded as a part of the revenue of the Government. The compromise act was then entered into, in contemplation of their continuance as such. It was also remarkable, that the proceeds of the public lands was the only branch of revenue in which the great mass of the people bore an equal share of the public burdens. The land bill itself so regarded it; because in that bill it was provided, in express terms, that where a greater amount of duty than twenty per cent. was laid upon any of the articles enumerated in the compromise act of 1833, the distribution should be suspended. Here was not only one compromise, but two—the compromise of 1833, and that of last session. Here was a bond originally executed be-

tween two contending parties. It was enacted by the very individuals now seeking to violate its provisions. Yes, this bond of compromise was signed under circumstances which he need not here repeat. It had been kept inviolate for years. Here was the original contract, (aluding to the act of 1833,) and here your subsequent recognition of its validity, (the distribution law.) Were these contracts not to be regarded? Did gentlemen mean nothing when they entered into them? Did they now intend that nothing should be accomplished by them?

In speaking of the compromise of 1833, he need only call the attention of the committee to the time when it received the sanction of Congress. Gentlemen here remembered the difficulties by which we were then surrounded, and the opposition which was made to the enforcement of the then existing law. Such was the state of dissension and disagreement which prevailed, that this country was brought to the very verge of disunion. All remembered the deep excitement prevailing at that time in relation to the contest between a State and the General Government; and those on the spot at the time could call to mind the sleepless nights which were spent in devising some scheme to save the Union from the most fearful of calamities. Yet, after a law had been passed under such circumstances, we were told it had no binding influence upon party, or any one else! Look at what was then said, when apprehensions were expressed lest it should not be observed. What said the leader of a great party, then as now? He (Mr. J.) could not quote his words, but he remembered that the leader to whom he referred said that it would be wrong to think of violating that act; and no man could stand up before the country and advocate such a design.

Let it be recollected that one party, at least, had kept its faith to the country; that, during nine years, whilst the South had to bear the burdens of the arrangement, it tamely and quietly submitted to the consequences—and under circumstances, too, which afforded the most plausible pretext for the violation of the principles embodied in the act. What had been the condition of the country during that period? Its treasury was overflowing, and it had deposited its millions with the States. Yet the law was looked upon as sacred. How strong would have been the appeal which might have been addressed to the people of the South, who bore the burdens of the act! Might it not have been said to them, "Why collect millions annually, when the treasury is so full, and when you may be so easily relieved without embarrassing the operations of the Government?" But what said the South then? True to its engagements, it never once looked to the consequences of such a measure. This, too, was at a time when the manufacturers were trembling lest the compromise should be disturbed.

The nine years had expired, and during that

time, the South had kept its part of the engagement. Now, when we (said Mr. J.) are to reap the advantages of the compromise act, what is the spectacle which we see exhibited? The very party who enacted the law have come forward, and declared that they will not execute the promises nor discharge the obligations there imposed. Again: who does not know that the land bill, which was passed at the extra session of Congress, would not have received the sanction of the Senate, but for the introduction of the 20 per cent. clause? What said gentlemen when the bill came back from the Senate with that provision attached? They said, "We assent to the proviso, in order to get the bill passed." Yet, when, by the proviso to the present bill, it is proposed to change a material provision in the land bill, and subtract seven or eight hundred thousand dollars from the means of the Treasury, this is called leaving things precisely as they were.

If such had been the object of gentlemen advocating the present bill, how easy would it have been for them to have passed another bill, emanating from the same committee which introduced this, but the day before, and now lying on the table. That bill had not been reported sixty minutes before it became apparent that its effect would be to suspend the distribution law. What was the course pursued? A motion was made to recommit it to the same committee, and, no doubt, for the purpose of substituting the present. If the object sought after was to leave the laws as they existed, where was the necessity for the present movement? The conviction was plain. Who was so blind as not to see that this bill re-enacted the land bill, and repealed the compromise? He asked, was it just or fair? You passed the distribution law by the incorporation of a principle, without which it could not have become a law; and, in less than a year, you seek to violate your own faith.

The hour of 2 o'clock having arrived, the committee, according to order, proceeded to vote upon the several amendments offered to the bill.

The question was first taken upon the motion to strike out the proviso to the bill, which re-enacts the distribution law. This motion was rejected—ayes 102, noes 118.

Mr. GWIN then renewed his amendment, (previously withdrawn,) according to which the operation of the distribution law would be suspended until the 1st of August. The vote on this amendment was taken by tellers, and resulted—ayes 87, noes 111.

Mr. GILMER moved to strike out the words "until the 1st day of August, 1842, and no longer," and insert "until the same shall be changed by law." The effect of this amendment would be to prolong the operation of the bill. It was rejected by the committee—ayes 90, noes 105.

After several ineffectual attempts had been made to carry amendments to the bill,

Mr. FILLMORE moved to strike out the words "and no longer," and insert "at which time, if there shall be then no further legislation on the subject, the laws shall be the same as if no action had been had." This amendment was adopted without a count.

The committee then rose and reported the bill to the House, and the amendments adopted in committee were then agreed to.

Mr. EASTMAN moved that the proviso to the bill be stricken out.

The House refused to strike out the proviso by a vote of 107 to 118.

The bill having been ordered to its engrossment, by general consent it was read a third time, and then passed by the following vote:

YEAS.—Messrs. Adams, Allen, Landaff W. Andrews, Sherlock J. Andrews, Appleton, Arnold, Ay-crigg, Baker, Barnard, Birdseye, Boardman, Botts, Briggs, Brockway, Bronson, Milton Brown, Burnell, Calhoun, Thomas J. Campbell, Caruthers, Casey, Childs, Chittenden, John C. Clark, Staley N. Clarke, James Cooper, Cowen, Cranston, Craven, Cushing, Garrett Davis, Deberry, John Edwards, Everett, Fessenden, Fillmore, A. Lawrence Foster, Giddings, Goggin, Patrick G. Goode, Graham, Granger, Green, Hall, Halsted, Howard, Hudson, Hunt, Joseph R. Ingersoll, James Irvin, William W. Irwin, James, William Cost Johnson, Isaac D. Jones, John P. Kennedy, Lane, Linn, McKennan, Samson Mason, Mathiot, Mattocks, Maxwell, Maynard, Mitchell, Moore, Morgan, Morris, Morrow, Osborne, Owsley, Parmenter, Pearce, Pendleton, Pope, Powell, Ramsay, Benjamin Randall, Alexander Randall, Randolph, Ridgway, Rodney, William Russell, James M. Russell, Saltonstall, Shepperd, Simonton, Slade, Truman Smith, Sprigg, Stanly, Stokeley, Stratton, Alexander H. H. Stuart, John T. Stuart, Summers, Taliaferro, John B. Thompson, Richard W. Thompson, Tillinghast, Toland, Tomlinson, Triplett, Trumbull, Underwood, Van Rensselaer, Wallace, Washington, Edward D. White, Joseph L. White, Thomas W. Williams, Joseph L. Williams, Yorke, Augustus Young, and John Young—116.

NAYS.—Messrs. Atherton, Beeson, Bidlack, Black, Bowne, Boyd, Brewster, Aaron V. Brown, Charles Brown, Burke, William Butler, William O. Butler, Green W. Caldwell, Patrick C. Caldwell, John Campbell, Chapman, Clifford, Clinton, Coles, Colquitt, Mark A. Cooper, Cross, Daniel, Richard D. Davis, Dawson, Dean, Doan, Dolg, Eastman, John C. Edwards, Egbert, Ferris, John G. Floyd, Charles A. Floyd, Fornance, Thomas F. Foster, Gamble, Gilmer, William O. Goode, Gordon, Gustine, Gwin, Habersham, Harris, John Hastings, Hays, Holmes, Hopkins, Houck, Houston, Hubard, Hunter, Charles J. Ingersoll, Jack, Cave Johnson, John W. Jones, Keim, Andrew Kennedy, King, Lewis, Littlefield, Lowell, Abraham McClellan, Robert McClellan, McKay, McKeon, Alfred Marshall, John Thompson, Mason, Matthews, Medill, Miller, Newhard, Oliver, Patridge, Payne, Pickens, Plumer, Proffit, Read, Reding, Rencher, Reynolds, Rhett, Riggs, Rogers, Roosevelt, Saunders, Shaw, Shields, Snyder, Steenrod, Sumter, Jacob Thompson, Turney, Van Buren, Warren, Watterson, Weller, Westbrook, Wise, and Wood—108.

2D Sess.]

*General Jackson's Fina.*

[JUNE, 1842.]

IN SENATE.

THURSDAY, JUNE 16.

*The Provisional Tariff Bill.*

On motion of Mr. EVANS, the bill from the House to extend, for a limited period, the present laws for laying and collecting duties on imports, was taken up and read the first time.

Mr. EVANS moved that the bill be now read a second time, with a view to its reference.

Mr. SEVIER objected to its second reading.

Mr. EVANS demanded the yeas and nays on the question, "Shall the bill be read a second time, with a view to reference?" which were ordered.

Mr. BUCHANAN remarked that, as the yeas and nays had been called, he would just say he would vote for referring the bill to a committee; certainly, he would for its reference. But, if the question was on the passage of the bill, with the proviso inserted in it, he would as certainly vote against it. He would vote for its reference, to give the Committee on Finance and the Senate an opportunity to strike out the proviso.

Mr. KING said he would vote against countenancing the bill, for one moment, in any form. He viewed it as an attempt to force the Senate to violate a solemn promise made to the country, and particularly to those who were induced to vote for the distribution law, under the direct pledge that the compromise act was not to be disturbed. He held that the distribution law never would have passed, had it not been for the distinct understanding (as strong as if it had been made in writing) with those who voted for it, that the compromise act should not be disturbed, and that, if the rate of duties should go above 20 per cent., the distribution of the sales of the public lands should cease. That was the understanding by both Houses, deliberately given—certainly on the part of the Senate—and which induced gentlemen to vote for the bill, who would otherwise have opposed it. He maintained that the Senate was bound, by the understanding, to resist the passage of the bill. The Senate owed it to itself, to its honor and integrity, and to the country and its interests, not to lend its sanction or countenance, for a moment, to this bill, and thereby violate every obligation to themselves and the great interests of the country. He would not, as far as he was concerned, give his countenance to the proposed measure for a moment.

Mr. EVANS said, any discussion on the merits of the bill would be inappropriate at this stage; he would not, therefore, say a single word. He hoped the bill would be permitted to take the ordinary course, as it would be brought before the Senate again at an early day.

The question was then taken on the motion to read the bill a second time, and resulted in the affirmative, as follows:

YEAS.—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Buchanan, Choate, Clayton, Conrad, Crafts, Crittenden, Evans, Graham, Huntington, Ker, Man-

gum, Merrick, Miller, Morehead, Phelps, Porter, Preston, Rives, Simmons, Smith of Indiana, Tallmadge, White, and Woodbridge—28.

NAYS.—Messrs. Allen, Bagby, Benton, Cuthbert, Fulton, King, Linn, McRoberts, Sevier, Smith of Connecticut, Sturgeon, Tappan, Walker, Wilcox, Williams, Woodbury, Wright, and Young—18.

The bill was then read the second time; when,

Mr. EVANS moved that it be referred to the Committee on Finance. Carried.

## HOUSE OF REPRESENTATIVES

FRIDAY, JUNE 17.

*General Jackson's Fina.*

Mr. C. J. INGERSOLL, from the Committee on the Judiciary, rose and begged leave to report a bill for the relief of General Jackson. He supposed it would be necessary to move the suspension of the rules for the reception of this bill, and he would, therefore, make that motion.

[Cries of "Oh, no; there will be no objection."]

There being no objection thereto, he reported the bill, and it was read a first and second time. It was a bill to restore the fine of \$1,000 imposed on General Jackson in 1815.

Mr. INGERSOLL then rose to present a report to accompany the bill just read; and he said it was due to himself, and to some members of the committee, (a majority of whom were opposed to accompanying the bill with this report,) that he should say that he offered it as the report of three members of the committee; and, as such, he trusted it would be laid on the table, and be printed. He submitted that motion.

Mr. BARNARD begged leave to submit to the House (that the House might act understandingly) the fact—which it was due to the Committee on the Judiciary should be known—that it was true, as stated by the gentleman from Pennsylvania, that the Committee on the Judiciary had directed him to report a bill for the relief of General Jackson. It was also true that the honorable gentleman from Pennsylvania presented a written report, which was not adopted by the committee; and there was, therefore, no report of the committee accompanying the bill. The question for the House to determine, therefore, was, whether they would, for the first time in the practice of the House, adopt in the shape of a minority report, a paper emanating from one or more of the committee, when the majority of the committee had made no report whatever. That was the only exception he felt it to be his duty to take to the adoption and printing of this paper; it would be the opening of the door to a practice which might be hereafter injurious, or at least inconvenient.

Mr. C. J. INGERSOLL said, in moving for the printing of this report, he was far from suppos-

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*The Apportionment Bill.*

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ing that the printing was a sanctioning of the report by the House. Whether gentlemen agreed with, or disagreed from, the report, he might say of it, that it was, in itself, very inoffensive; it was but such an argument as he had thought fit to submit with the bill; and the House could print it, or not, as they might think proper.

Mr. FOSTER, of Georgia, made some observations, which were not heard at the reporters' desk; and then the motion was agreed to.

### *The Apportionment Bill.*

The House took up the apportionment bill.

The question pending was, "Will the House recede from its disagreement to the amendments of the Senate?" on which Mr. THOMPSON, of Indiana, had moved the previous question; but, before any action was had thereon, the House adjourned.

Mr. BIRDSEYE called for the yeas and nays on the question of receding, which were ordered; and the House determined to recede from its disagreement to the amendments of the Senate: yeas 109, nays 104.

The question then recurred upon agreeing to the first division of the Senate's amendment, (*i. e.* that increasing the ratio,) and resulted in the affirmative, as follows:

YEAS.—Messrs. Allen, Landaff W. Andrews, Sherlock J. Andrews, Barnard, Barton, Beeson, Bidlack, Black, Bronson, Aaron V. Brown, Milton Brown, Jeremiah Brown, Burke, William Butler, Patrick C. Caldwell, Thomas J. Campbell, Casey, Chapman, Childs, John C. Clark, Coles, Cravens, Cross, Daniel, Dawson, Eastman, Everett, Fessenden, Fillmore, Thomas F. Foster, Gamble, Gilmer, Goggin, Patrick G. Goode, Granger, Gustine, Gwin, Habersham, Hall, Hopkins, Houston, Howard, Hunter, Hunt, Chas. J. Ingersoll, James Irvin, Jack, James, Cave Johnson, John W. Jones, Isaac D. Jones, King, Lane, Lewis, Lowell, McKay, Samson Mason, John Thomson Mason, Mathiot, Mattocks, Maxwell, Miller, Mitchell, Moore, Morgan, Morrow, Parmenter, Pickens, Pope, Powell, Proffit, Benjamin Randall, Randolph, Rayner, Read, Reding, Rhett, Ridgway, Rodney, Rogers, William Russell, J. M. Russell, Saltonstall, Saunders, Shaw, Shepperd, Slade, Truman Smith, Sprigg, Stokeley, Alexander H. H. Stuart, John T. Stuart, Summers, Sumter, Taliaferro, John B. Thompson, Richard W. Thompson, Jacob Thompson, Trumbull, Turney, Underwood, Van Rensselaer, Wallace, Warren, Washington, Watterson, Edward D. White, James W. Williams, Wise, Yorke, Augustus Young, and John Young—113.

NAYS.—Messrs. Adams, Appleton, Arnold, Atherton, Ayer, Baker, Birdseye, Boardman, Borden, Botta, Bowne, Boyd, Brewster, Briggs, Charles Brown, Burnell, William O. Butler, Green W. Caldwell, Calhoun, John Campbell, William B. Campbell, Caruthers, Chittenden, Staley N. Clarke, Clifford, Clinton, James Cooper, Mark A. Cooper, Cowen, Cranston, Cushing, Garrett Davis, Richard D. Davis, Dean, Deberry, Doig, John Edwards, John C. Edwards, Egbert, Ferris, John G. Floyd, Charles A. Floyd, Fornance, A. Lawrence Foster, Gentry, Giddings, William O. Goode, Gordon, Gra-

ham, Green, John Hastings, Hayes, Holmes, Houck, Hubard, Hudson, Joseph R. Ingersoll, William W. Irwin, Wm. Cost Johnson, Keim, John P. Kennedy, Andrew Kennedy, Linn, Littlefield, Robert McClellan, McKennan, McKeon, Marchand, Alfred Marshall, Mathews, Maynard, Medill, Meriwether, Morris, Newhard, Oliver, Osborne, Patridge, Payne, Pearce, Pendleton, Plumer, Ramsay, Reynolds, Riggs, Roosevelt, Sanford, Shields, Simonton, Snyder, Stanly, Steenrod, Stratton, Sweney, Tillinghast, Toland, Tomlinson, Triplett, Van Buren, Weller, Joseph L. White, Christopher H. Williams, Joseph L. Williams, and Wood—108.

After some conversation upon points of order between the SPEAKER and Mr. W. COST JOHNSON, the question was taken upon the second division of the Senate's amendment, (*i. e.* that which admits of the principle of fractional representation,) and it was agreed to, as follows:

YEAS.—Messrs. Landaff W. Andrews, Sherlock J. Andrews, Appleton, Arnold, Ayer, Barnard, Barton, Black, Boardman, Borden, Briggs, Bronson, Aaron V. Brown, Milton Brown, Wm. Butler, Patrick C. Caldwell, John Campbell, William B. Campbell, Thomas J. Campbell, Caruthers, Casey, Chapman, Childs, John C. Clark, Coles, Cranston, Cravens, Cross, Cushing, Garrett Davis, Dawson, John C. Edwards, Everett, Fessenden, Gamble, Gentry, Wm. O. Goode, Granger, Gwin, Habersham, Hall, Holmes, Houston, Howard, Hunter, Hunt, J. R. Ingersoll, James Irvin, William W. Irwin, James, Cave Johnson, John W. Jones, Lane, Lewis, McKennan, Samson Mason, John Thomson Mason, Mathiot, Mathews, Mattocks, Maxwell, Mitchell, Moore, Morgan, Morrow, Parmenter, Pearce, Pickens, Pope, Powell, Proffit, Benjamin Randall, Reed, Rencher, Rhett, Ridgway, Rodney, James M. Russell, Saltonstall, Saunders, Shepperd, Shields, Simonton, Slade, Truman Smith, Sprigg, Stokeley, John T. Stuart, Sumter, John B. Thompson, Richard W. Thompson, Jacob Thompson, Tillinghast, Trumbull, Turney, Underwood, Van Rensselaer, Wallace, Warren, Washington, Watterson, Edward D. White, Joseph L. White, Christopher H. Williams, Joseph L. Williams, Wise, Yorke, Augustus Young, and John Young—110.

NAYS.—Messrs. Adams, Allen, Atherton, Baker, Beeson, Bidlack, Birdseye, Blair, Botta, Bowne, Boyd, Brewster, Brockway, Charles Brown, Jeremiah Brown, Burke, Burnell, William O. Butler, Green W. Caldwell, Calhoun, Chittenden, Clifford, Clinton, James Cooper, Mark A. Cooper, Cowen, Daniel, Richard D. Davis, Dean, Deberry, Doig, Eastman, John Edwards, Egbert, Ferris, John G. Floyd, Charles A. Floyd, Fornance, A. Lawrence Foster, Thomas F. Foster, Giddings, Gilmer, Goggin, Patrick G. Goode, Gordon, Graham, Gustine, Hays, Hopkins, Houck, Hudson, C. J. Ingersoll, Jack, William Cost Johnson, Isaac D. Jones, Keim, Andrew Kennedy, John P. Kennedy, King, Linn, Littlefield, Lowell, Robert McClellan, McKay, McKeon, Marchand, Alfred Marshall, Maynard, Medill, Meriwether, Miller, Morris, Newhard, Oliver, Osborne, Owsley, Patridge, Pendleton, Plumer, Ramsay, Randolph, Rayner, Reding, Reynolds, Riggs, Rogers, Roosevelt, Wm. Russell, Sanford, Shaw, Snyder, Stanly, Steenrod, Stratton, Alexander H. H. Stuart, Summers, Sweney, Taliaferro, Toland, Tomlinson, Triplett, and Weller—102.

2d Sess.]

The Tariff.

[JUNE, 1842.]

SATURDAY, June 18.

*The Tariff.*

Mr. FILLMORE moved that the House resolve itself into a Committee of the Whole on the state of the Union. The following item (No. 1.) of the bill being under consideration :

"*Be it enacted, &c.,* That from and after the 30th day of June next, in lieu of the duties now imposed on the articles hereinafter mentioned, and on such as may now be exempt from duty, there shall be levied, collected, and paid, the following duties, that is to say :

"First. On wool unmanufactured, the value whereof at the last port or place from whence exported to the United States shall exceed eight cents per pound, shall be levied a duty of thirty per cent. *ad valorem.*"

Mr. SALTONSTALL had moved to strike out the said item, and insert in lieu thereof a portion of the bill reported from the Committee on Manufactures.

[NOTE.—This motion embraced the whole of that bill, with the following modifications :

In the first item of the proposed amendment, the words "thirtieth day of July" were substituted for the words "thirtieth day of June."

And the last section, which is in the following words, was stricken out :

Sec. 9. *And be it further enacted,* That if any person shall, knowingly and wilfully, with intent to defraud the revenue of the United States, smuggle, or clandestinely introduce into the United States, any goods, wares, or merchandise subject to duty by law, and which should have been invoiced, without paying or accounting for the duty, or shall make out or pass, or attempt to pass, through the custom-house, any false, forged, or fraudulent invoice, every such person, his, her, or their aiders and abettors, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be liable to a fine or imprisonment, or both; the fine not to exceed five thousand dollars, or the imprisonment two years.]

Mr. HABERSHAM had moved to amend the amendment by inserting, in lieu thereof, after the words "*Be it enacted,*" &c., the bill which had heretofore been reported by him from the minority of the Committee on Manufactures.

Mr. H. said the most objectionable feature which he found in this bill was the specific duties and the principle of minimums, upon which Mr. H. entered into an argument of some length to show the inequality and injustice of these provisions. In the course of this part of his remarks, he quoted a report of Mr. ADAMS made at the 1st session of the 26th Congress, containing a powerful argument against the minimum principle as well as specific duties; the substance of which was, that they prevent revenue, by excluding to that extent foreign importations; secondly, that they deceive the people; and, thirdly, make the man who uses coarse manufactures pay a higher duty than that paid by the man who consumes the finest and costliest articles. In this bill Mr. H. said that that unjust principle was carried to a great extent on a good many

articles. For instance, on the article of sugar. On the coarse kind of sugar, the duty would be one hundred per cent.; while on the finer, it would amount to about thirty per cent. On carpets which cost comparatively little, the duty would be higher than on Turkey or ingrained carpeting. Mr. H. deprecated the effects that would be produced by this bill, and foretold the great dissatisfaction with which it would be received throughout the country, by the great body of consumers. The best policy, he contended, for this country, would be to distribute the taxes as equally as possible among all classes of the community; and he contrasted the approach that was now making in England to liberal principles with the selfish and monopolizing spirit that prevailed here.

Mr. A. V. BROWN addressed the committee for one hour, in opposition to the increased rate of duties. He could find nothing in either of the bills to redeem them from the abhorrence in which he held them. They both had the obnoxious purpose of violating a solemn instrument of compromise. He should, however, speak to but one bill, because the other had been introduced by the committee without any report or recommendation of its principles.

He thought Congress should have nothing to do with the question of increasing the duties at the present session; and to take it up for the purpose of a general revisal, and the imposition of duties higher than 20 per cent., he held to be an act of legislative perfidy.

He would not refer to the various party struggles on the tariff. In every instance, however, until 1833, the principle of protection had triumphed. In 1833, the burdens became so onerous as to cause almost a state of revolution. The compromise was passed, and the high duties brought down. Protection had now become odious, and many who once advocated it, now merely expressed themselves for a tariff for revenue, though in disguise for protection.

The chairman of the Committee of Ways and Means had denominated his bill a *revenue* measure. Not so with the chairman of the Committee on Manufactures. He was more bold, and too candid to style his measure a revenue bill. No one could doubt that both bills were for the purpose of protection. He spoke of the construction of the Committee on Manufactures—nearly all of whom were from the North—but two from the South—and himself alone from the great West. He gave a history of the progress of the bills between the two committees and the Secretary of the Treasury. The gentleman from Massachusetts (Mr. SALTONSTALL) regretted that the House would not allow him to send for persons and papers before the committee. The fact was there was no need of witnesses. They swarmed around the committee-room like locusts—all of them interested manufacturers. Although the House passed a resolution saying that the testi-

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many of interested persons should not be taken, the committee refused to take any other, and made their statements from the representations of men whose very bread depended upon the answers they gave.

## IN SENATE.

MONDAY, June 20.

*The Bankrupt Law.*

Mr. BENTON, agreeably to notice heretofore given, asked leave to introduce a bill to repeal the bankrupt law of 1841.

The CHAIR had great doubt whether the bill could be introduced, except by a vote of two-thirds of the Senate. Since notice had been given by the Senator from Missouri (Mr. BENTON) of his intention to ask leave, he had examined the rule.

Mr. BENTON said he had given ten days' notice.

The CHAIR said the joint rule also seemed to contemplate a vote of two-thirds. He read the rule as follows: "When a bill or resolution which has been passed in one House, shall be rejected in the other, it shall not be brought in during the same session, without a notice of ten days, and leave of two-thirds of that House in which it shall be renewed."

Mr. BENTON again remarked that he had given the requisite notice.

Mr. BERRIEN remarked that it appeared by the rule that a vote of two-thirds was necessary to grant permission to bring in the bill, and he therefore demanded the yeas and nays; which were ordered.

Mr. BENTON desired, as he would like to say something upon the subject, that the question might be permitted to lie over till to-morrow. Acquiesced in.

## HOUSE OF REPRESENTATIVES.

TUESDAY, June 21.

*The Tariff.*

On motion of Mr. FILLMORE, the House resolved itself into Committee of the Whole on the state of the Union, (Mr. McKENNA, of Pennsylvania, in the chair,) and resumed the consideration of the bill "to provide revenue from imports, and to change and modify existing regulations imposing duties on imports, and for other purposes."

Mr. HABERSHAM had moved to amend the amendment, by inserting, in lieu thereof, after the words "Be it enacted," &c., the bill which had heretofore been reported by him from the minority of the Committee on Manufactures.

Mr. COWEN denied that there had been any legislative perjury in relation to this subject. The compromise act contemplated a modification of duties; and by the distribution of the proceeds of the public lands, the people got the benefit, as it lessened the necessity for direct

taxation; and it never, for a moment, entered his mind, that the States were too extravagant to be trusted with it. By the distribution act, the people got the benefit directly; by paying the amount into the national treasury, they received it indirectly; and the question was, would the House lower the direct or the indirect taxation. He preferred the former; and he preferred it, also, because it took the land from out of the political market.

He then took a rapid glance through the history of this question, and strongly advocated the doctrine of protection, as the true policy of this country.

Mr. KENNEDY, of Indiana, said he would commence by saying that he had no patience with this doctrine of protection; he would just as calmly sit down and reason about the *modus operandi* of stealing from his pocket the produce of a day's labor, as about this doctrine of protection. When he heard gentlemen talk about the necessity of protecting the people of the West, he was astonished. He was born in the West, and he had resided in the West—indeed, he had never resided anywhere else; and if he knew any thing of the opinion of the Western people, it was the reverse of this doctrine of protection.

On the subject of the constitutionality of protection, Jackson, and Madison, and Jefferson, had been quoted. He had not had an opportunity to look up authorities; but he held that a tariff for protection was unconstitutional, and, in a few words, he would give the reasons on which his opinions were based. It would, doubtless, be admitted that the tariff, whether for revenue or protection, was an exercise of the taxing power; and he wished the word "tariff" had never been used. If the word "tax" had been used, as it ought to have been, the people would have been much less humbugged than they had been.

The constitution clothes Congress with the taxing power—with power to lay and collect taxes, imposts, and excises: and for what was this power given? To pay the debts and provide for the common defence and general welfare of the United States. Now, if the framers of the constitution had intended to give freedom to Congress to exercise the taxing power for "protection," it would have been very easy to have added to the purposes for which taxes were to be raised, "and for the protection of domestic manufactures." It had been intimated that the exercise of the taxing power for protection was indirectly to provide for "the general welfare." To this he replied, that the taxing power was given for simple and enumerated purposes; and to exercise it for other purposes, was to violate the trust which had been confided in them. He held that to levy a tax, by which one portion of the community was made to pay out of their hard earnings for the benefit of another portion of the community, was not a raising of taxes to pay the debts or to provide for the

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general welfare of the United States; it was to provide for the welfare of a few favorite individuals, at the expense of the general welfare.

He wanted to ask the advocates for protection a few questions. They said that they wanted a market for the surplus produce of the farmers, and that, by protecting the manufactures, that market would be created. They say to the farmers of the West: "You raise a great deal of corn, beef, and pork; and as the British have closed their ports against it, you must make a market at home, by turning the New Englanders into manufacturers." Now this, at the first blush, seemed to be very plausible, but he wished to ask them how much of the surplus produce of the Western farmers they would take. Will they give us a market for all our surplus produce? No; they will not, and cannot. One of the rich States of the valley of the Mississippi would keep all the manufacturing establishments in New England in hog and hominy for three years. They could not take any thing like the surplus produce of the West. Our country is too vast and too rich for its surplus produce to be consumed by the manufacturing establishments of a few States. It was eminently calculated for an agricultural, and not for a manufacturing country; and he never would make it the latter, if he had the power to do so. Let any man travel through the Western country, breathe its pure air, look upon its fertile fields, and witness the freedom and happiness of its population, and say if he would change it for the crowded atmosphere of a manufacturing town, with all its vice and misery—which, said he, I pray God to keep us from. Then, he would say, that in the very nature of things, the manufacturers never could be made to consume the surplus produce of the Western country. But suppose that it could—suppose that you adopt a tariff, excluding all foreign commodities. If we buy nothing, we can sell nothing; and here will be the spectacle of the American Republic, like a second Celestial Empire, drawn up within her shell—cut off from commerce with all the world. When we come to this condition, some new lights may spring up with notions like those of the honorable gentleman from Massachusetts, and set all the world against us, for a violation of the laws of nations, and to whip us into commerce again.

IN SENATE.

THURSDAY, JUNE 23.

*The Fiscal Year.*

Mr. EVANS, agreeably to notice given, and on leave, introduced a bill to define and establish the fiscal year of the Treasury of the United States; which was read the first time.

Mr. BUCHANAN inquired whether there was any necessity for the reference of the bill to a committee?

Mr. EVANS did not think there was; and asked that the bill might be read a second time.

The bill was then read the second time.

[The bill proposes that the fiscal year shall commence on the 1st of July, in each year.]

Mr. EVANS said that the object of the bill had been long desired; that it was recommended by the Senator from New Hampshire, (Mr. WOODBURY,) when at the head of the Treasury department. He (Mr. E.) hoped it would become a law at the present session of Congress. If there was no desire that the bill should be committed, he hoped it would be acted upon without delay.

Mr. WOODBURY agreed with the Senator from Maine, (Mr. EVANS,) that the object of the bill was a desirable one—to make the fiscal year correspond with the commercial year.

On motion of Mr. EVANS, the bill was then taken up as in Committee of the Whole, considered, and, there being no proposition to amend, it was reported to the Senate, and ordered to be engrossed for a third reading.

*The Provisional Tariff.*

On motion of Mr. EVANS, the Senate proceeded to the consideration, as in Committee of the Whole, of the bill to extend for a limited period the present laws for laying and collecting duties on imports.

Mr. EVANS observed that the explanations he should make of this bill would be very brief; and he hoped the bill itself would be disposed of to-day, one way or another. Its object is to postpone, for one month, the operation of that part of the compromise act, the provisions of which would come into effect on the 1st of July. A very considerable reduction of duties takes place by that act on the first day of next month.

It is well known that the revenue receipts of this year, like those of several years back, will fall very far short of the actual expenditures of the year. The demands of the treasury, for ordinary purposes, independent of the public debt, will be very little short of twenty-three millions of dollars. The appropriations of this session, it is now certain, will amount to twenty-two millions, including a million for objects not specified. The income of the treasury, under present laws, cannot approach anywhere near the amount of these demands. The receipts from customs, under existing laws, cannot surpass fifteen millions; leaving a deficit of seven millions to be supplied by treasury notes, or some other provision of Congress.

It is evident that a necessity exists to increase the means of the treasury. The bill for the reorganization of the tariff has not yet been matured; and there is no hope that it can be ready to go into operation sooner than the 1st of August. He believed the benefit of a home valuation will be about equal to the reduction contemplated by the compromise act;



so that there will be no violation of the principles of that act if the duty now payable be continued. The necessity for this temporary bill is apparent from the doubt which exists whether any duty can be collected after the 30th of June, unless so far as secured by the revenue bill of last session; which bill imposed duties on a small portion of the imports. This doubt arose out of the compromise act passed in March, 1838. He quoted the first section of that act, and assumed that, if the act stopped here, no doubt could exist; but the third section specified that the rate of duties should be continued *until* the 30th of June, 1842; and there was another section which provides, in effect, that other laws shall be passed regulating the duties to be collected after the 30th of June. This was in the last part of the fifth section, stating that articles shall not be imported unless subject to such duties as shall be imposed by law, not exceeding 20 per cent.

Here, then, was considerable doubt whether any duties can be collected. Ought it to be left a matter of doubt? Every one knows that the importers are under an impression that no duty can be collected under the compromise act, after the 30th of June. This indicates that there may be considerable disputes referrible to judicial courts, and they have not been favorable to revenue laws. It is, at least, not so clear a case as to justify reliance on the power of collecting duties. Preparations are made for very large importations, if the duty shall be only 20 per cent., which will be vastly increased under the chance of being admitted duty-free. The condition of the treasury imperiously required the passage of this bill; and the necessity was so pressing, that he could not anticipate any hesitation. It is even very questionable whether the home valuation can be regulated in time. So that, even if the act of 1838 can be made available for the collection of duties, it is very plain its operations must be very unequal and very unjust. As far as the main question of revenue was concerned, there could be no objection to the passage of the bill. But it is said it will be a violation of the compromise act, by exceeding 20 per cent. duty after the 30th of June. He asked Senators, was no duty beyond 20 per cent. absolutely required for the wants of the Government, even if the proceeds of the public lands are taken back? It can be no violation of the compromise act to exceed 20 per cent. duty on imports, while the necessities of the Government demanded more.

He very much questioned whether the rate of duties, now existing, will not be continued after the 30th of June, by the adoption of the home valuation. But, as that home valuation cannot be adjusted in time, there would be no violation of the compromise act by continuing the rate of duties the same as at present.

Let the matter be what it may, Congress must provide means for the necessities of the

treasury. There is another objection to be anticipated; and that is, in relation to the clause repealing the section of the land distribution act of last session, which returns the land fund to the treasury, should the duties be raised past 20 per cent. It has been insisted that this section was introduced into the distribution act as a compromise, and that this attempt to repeal it is a violation of the compact by which the act was passed. How could it be called a compromise, when the gentlemen opposite stand pledged to repeal the whole act the moment they can get the opportunity? Urgent appeals have been made to Senators supposed to have committed themselves. He saw himself alluded to as having said he did not contemplate that any attempt would be made to increase the duties beyond twenty per cent. He never had expressed an opinion as to what Congress would do. What he had said was, that if it was necessary to go into the subject at a future session, Congress would have the whole subject before it, and could repeal the distribution act if it saw fit.

His own impression was, that the whole matter—the adjustment of the tariff, and also the distribution subject, till 1st of August, so as to give time for adjustment—would leave neither the friends nor the enemies of either increased tariff or distribution in a worse condition than at present. His object was, in effect, to postpone the 1st day of July to the 1st of August, so that the passage of this bill shall have no effect on either tariff or distribution; and if no other law be passed, on the 1st of August the compromise act and distribution act shall both go into effect, according to their specific powers.

It seemed to him, that all those who are opposed to distribution ought to go with him for postponement. Neither party would suffer any disadvantage, or obtain any advantage. If the bill pass as it is, the distribution will take effect; but if the proviso be stricken out, every gentleman will stand in the same condition on the 1st of August as on the 1st of July. For the purpose of rendering the bill acceptable to all, he would propose to strike out the proviso in the bill, and insert in its place the following:

“That the distribution of the proceeds of the public lands, authorized and directed by the act of Congress passed the 4th of September, 1841, entitled ‘An act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights,’ shall be, and the same is hereby, suspended and postponed until the 1st day of August, 1842; and the said act of the 4th September, 1841, shall be no otherwise or further affected or modified, than merely to postpone to the said 1st day of August next the distribution of the said proceeds directed by that act to be made on 1st day of July, 1842; any thing contained in this act, or the said act of the 4th of September, 1841, to the contrary notwithstanding.”

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*The Provisional Tariff.*

[JUNE, 1842.]

## IN SENATE.

FRIDAY, JUNE 24.

*The Provisional Tariff.*

On motion of Mr. EVANS, the Senate resumed, as in Committee of the Whole, the consideration of the bill to extend, for a limited period, the present laws for laying and collecting duties on imports.

The question pending was the proposition of Mr. EVANS to strike out the proviso in the bill, and insert a substitute.

Mr. RIVES said with regard to the amendment of the Senator from Maine, (Mr. EVANS,) it simply postponed the distribution until the 1st of August, at which time it was proposed to take place, anything in the distribution law, or any other law, to the contrary notwithstanding. But no man had admitted that they had the constitutional power to distribute money, if they had to raise it by taxation; and yet all these principles must be trampled on, to grasp at distribution as a practical measure! Nor had any man admitted that they had a right to distribute, except in case of a surplus. This was the language of Mr. CLAY in 1833, and the language of all the advocates of distribution, from that time to the recent revival of the measure, when distribution was contended for on the single principle that by "a duty of 20 per cent. on luxuries," in the fashionable language of the day, there would be more than a sufficiency of means for the support of the Government; and, therefore, the proceeds of the public lands could be distributed among the indebted States. But there was now no surplus—nobody dreamed of one; and yet a distribution was contemplated and insisted on by Senators, notwithstanding the impoverished state of the treasury, and the difficulty of negotiating loans to carry on the Government.

Fifteen millions of dollars in revenue was all that could be got, under existing laws, from customs. Twenty-seven millions was the least sum required, according to the estimate of the chairman of the Committee of Ways and Means in the other House. But where was the balance of twelve millions to be got? Upon credit? The most thriftless resource ever thought of, even by the prodigal son! He showed that little dependence was to be placed on loans. Out of all the loan bills of the extra session and this session, only a million and a half had been obtained since the last act passed; and that at the sacrifice of national credit—ninety-seven and a half per cent.; he understood from rumor, being the rate at which that pittance was obtained. How much money was likely to be in the treasury on the 1st of August? When the navy appropriation bill, the army appropriation bill, &c., will have been thirty days in force, how much money will be left in the treasury? How, then, is the money to be got which this proviso says shall be distributed to the States on the 1st of August, instead of the 1st of July? Did gentlemen mean to borrow it? and, if they

did, of whom, and at what sacrifice of national honor and national credit? And was this to be done in spite of the want of constitutional power to borrow money for distribution, admitted by every one? No man has, hitherto, even dared to propose a distribution, unless from a surplus. When the Senator from Kentucky (Mr. CLAY) made his celebrated report in favor of distribution, it was on the ground that the treasury was then bowed down by the weight of surplus revenue, which it was necessary to get rid of. Now, the proposition is to distribute from an exhausted treasury, which can have no surplus, unless created by borrowed money.

Nothing, he conceived, was so utterly indefensible as the assumption that the public lands are the property of the States, and not of the United States. This he argued at great length, in opposition to the heretofore expressed views of the Senator from Indiana, (Mr. SMITH,) and others.

Mr. SMITH, of Indiana, interposed to explain. His position, as would be seen by his public speeches, was, that the proceeds of the lands covered by the deeds of cession, after the objects of the cession had been accomplished, were due to the States; but, as to the lands not covered by those deeds, they were subject to the disposal of Congress, at its discretion, as was declared in the constitution, and contended for by General Jackson, the head of the Democratic party. He hoped he was understood, and he would not further interrupt the Senator.

Mr. RIVES resumed. He understood the Senator to say that, after the accomplishment of certain purposes, the *proceeds* of the ceded lands belonged to the States. [Mr. S. nodded assent.] He quoted the deed of cession, with a view of showing that the language was perfectly justified by the condition of alliance which held the States together at that time. There was to be a common treasury, to which the States were to contribute. How, then, could that compact ever be carried out, but by bringing the proceeds into the common fund, to be applied to the common defence?

This he expatiated upon at large, and quoted the declaration of Maryland—now brought forward by him for the first time, having accidentally discovered it in the archives of Virginia. After quoting contemporaneous evidence from various authorities in support of his views, Mr. R. deduced that, whatever may be Mr. CLAY's views now, when he first advocated distribution, and for many years, he never broached the idea of any thing beyond distribution from an inconvenient surplus in the treasury.

Mr. CRITTENDEN said the only refutation he thought necessary to offer to the Senator's arguments, was a reference to his own speeches; he would, if time permitted, only ask to oppose the Senator to himself. He would set up his vote in favor of the distribution bill of last session, as a complete answer to his arguments to-day.

Mr. RIVES reminded the Senator from Kentucky that he had been induced to vote for that measure by the solemn stipulation of the suspension clause. His arguments to-day were in favor of carrying out the provisions of that bill in good faith.

Mr. CRITTENDEN said he never regarded this distribution act in any other light than that of an act of common and ordinary legislation, subject to future revision and correction. It is very true that, at the time of passing it, the friends of the measure, in order to carry it earlier than they otherwise could carry it, were, for the present, content to modify it so as to insure a sufficient number of votes for its passage; but surely that was not to preclude them, whenever they should have a majority strong enough to amend the act, from expunging the obnoxious clause forced upon them by the circumstances of the moment. Did the Senator mean to contend that an act is to be perpetual, or even to continue a moment longer in full force than Congress chooses, when prepared to repeal or modify it? There was no pledge,—no violated faith. All parties got by this act just what they could get, and no more. Such, too, must be the case now, in relation to any modification Congress may choose to make.

It seemed to him strange that any doubt should be entertained as to the import of the proviso now under consideration.

What is the fact? That Congress is called upon to pass a law continuing the revenue laws now existing for one month. What is fair, on such an occasion, with regard to the friends and opponents of distribution? That the operation of the act of 1841, in relation to distribution, should be merely suspended during the rise of revenue after 30th of June, 1842, for one month pending the adjustment of the whole question. If the compromise act were to be carried out in full, on the 1st of July, would not the duties be 5, 6, or 7 per cent. higher than 20 per cent. under the home valuation and cash duties?

It was but for one short month. And was it right that this temporary act should be allowed to suspend the operation of a great national distribution act so long agitated and so solemnly enacted? The proviso will continue in operation—so will the distribution act. How, then, could gentlemen contend that it would have the effect of a repeal? This act will expire on the 1st of August. If then the duty should be higher than 20 per cent., how can the distribution be made after that, without some fresh enactment, or duties fall down to 20 per cent.?

Mr. BUCHANAN said in his opinion there was but little difference between the amendment and the proviso which it proposed to strike out. Under the bill as it came from the House, the first instalment under the distribution law would be payable to the States on the 1st day of July; whilst the amendment of the Senator from Maine would postpone the payment until

the 1st of August. This was the whole difference. If Senators supposed that the amendment changed the original bill in any other particular, they were mistaken.

The great question still remained, whether any portion of the proceeds of the public lands ought to be distributed, in violation of the proviso to the sixth section of the distribution law? and this question was as fairly raised by the Senator's amendment as it had been by the proviso to the bill as it came from the House. The avowed and manifest purpose of the amendment was to save to the States the first instalment under the distribution law, notwithstanding the bill to which it was annexed increased the duties on imports to a rate above twenty per cent. If this bill were to become a law before the 1st day of July, without any proviso whatever, the distribution of the instalment, which would otherwise have become due on that day, would be suspended and gone. This bill, then, in any event, whether the proviso from the House or the amendment of the Senator from Maine shall prevail, will save the first instalment for the States. The amendment will accomplish this purpose as effectually as the proviso from the House. Both equally preserve the right, and prevent the forfeiture. It was in vain for Senators to attempt to evade the question of principle by any such modification of the original bill as the amendment proposed.

In point of principle, then, the question arises as much upon this amendment, as if it were a proposition absolutely to repeal the proviso to the sixth section of the distribution law. The question, shall the operation of this proviso be suspended for one month, and in regard to one instalment, involves the principle as effectually as if the proposition were to suspend it forever. It is true, that the interest to be effected would not be so great; but the principle which must govern, is the same in both cases. The amendment of the Senator from Maine, then, is less obnoxious than the original bill, only because it extends the time of payment for one month; and this indulgence is given in the avowed hope that the general revenue bill, which we expect from the House, will contain a clause to repeal absolutely the proviso to the sixth section of the distribution law. This, then, is the favorable moment to decide the question; and fortunate it is that it arises upon a bill of comparatively small importance.

This (said Mr. B.) was all that I had intended to say when I rose. But I must proceed a little further. The necessities of the treasury, as well as the great interests of the country, imperiously demand the passage of a revenue bill at the present session of Congress. Whilst I would strictly limit the amount of revenue to the necessary expenditures of the Government, and the gradual extinguishment of the existing public debt, yet I would make just and reasonable discriminations in favor of domestic manufactures. If we shall not split upon the rock

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of distribution, such a revenue bill as ought to be satisfactory to all interests will become a law before the close of the present session. But I confess I fear the result. I now say, in my place, that all these great interests are to be perilled by connecting them with this miserable scheme of distribution.

What connection necessarily exists between the two subjects? Why not separate them? Let us have one revenue bill, and another bill to repeal the proviso contained in the 6th section of the distribution law. Then we can each act freely, fairly, and independently.

The question being on the proposition of Mr. EVANS to strike out the proviso in the bill, and to insert his modification of it—

Mr. EVANS demanded the yeas and nays on his proposition, which were ordered; and the question being put, it resulted in the affirmative, as follows:

YEAS.—Messrs. Archer, Barrow, Bates, Bayard, Choate, Clayton, Conrad, Crafts, Crittenden, Evans, Graham, Henderson, Huntington, Ker, Mangum, Miller, Morehead, Porter, Simmons, Smith of Indiana, Tallmadge, White, and Woodbridge—28.

NAYS.—Messrs. Allen, Benton, Berrien, Cuthbert, Fulton, King, Linn, McRoberts, Preston, Rives, Smith of Connecticut, Sturgeon, Tappan, Walker, Wilcox, Woodbury, Wright, and Young—18.

Mr. KING moved to strike out the whole proviso to the bill, as amended; and on that motion demanded the yeas and nays, which were ordered; and the question being put, it was decided in the negative, as follows:

YEAS.—Messrs. Allen, Archer, Benton, Berrien, Buchanan, Cuthbert, Fulton, Henderson, King, Linn, McRoberts, Preston, Rives, Smith of Connecticut, Sturgeon, Tappan, Walker, Wilcox, Woodbury, Wright, and Young—21.

NAYS.—Messrs. Barrow, Bates, Bayard, Choate, Clayton, Conrad, Crafts, Crittenden, Graham, Huntington, Ker, Mangum, Miller, Morehead, Phelps, Porter, Simmons, Smith of Indiana, Tallmadge, White, and Woodbridge—21.

The bill was passed by the following vote:

YEAS.—Messrs. Archer, Barrow, Bates, Bayard, Choate, Clayton, Conrad, Crafts, Crittenden, Evans, Graham, Henderson, Huntington, Ker, Mangum, Miller, Morehead, Phelps, Porter, Simmons, Smith of Indiana, Tallmadge, White, and Woodbridge—24.

NAYS.—Messrs. Allen, Benton, Berrien, Buchanan, Cuthbert, Fulton, King, Linn, McRoberts, Preston, Rives, Smith of Connecticut, Sturgeon, Tappan, Walker, Wilcox, Woodbury, Wright, and Young—19.

The Senate then adjourned.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, JUNE 27.

#### *The Provisional Tariff.*

This bill was taken up, and the Clerk read the amendment of the Senate, as follows:

The House had inserted the following proviso—

"*Provided*, That nothing herein contained shall suspend the distribution of the proceeds of the public lands, any thing herein contained, and any thing contained in the proviso to the sixth section of the act approved 4th September, 1841, entitled 'An act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights,' to the contrary, notwithstanding."

The Senate had stricken out this proviso, and inserted, in lieu thereof, the following:

"That the distribution of the proceeds of the public lands, as authorized and directed by the act of Congress of the 4th September, 1841, entitled 'An act to appropriate the proceeds of the public lands, and to grant pre-emption rights,' shall be, and the same is hereby, suspended and postponed until the 1st day of August, 1842; and the said act of the 4th September, 1841, shall be no otherwise affected or modified than merely to postpone to the said first of August next the distribution of said proceeds directed by that act to be made on the 1st July, 1842, any thing in this act, or the said act of the 4th September, 1841, to the contrary, notwithstanding."

Mr. YORKE moved the previous question.

The question then recurred on the motion for the previous question, which was agreed to.

The next question was the following: "Shall the main question be now put?"

Mr. TURNER called for the yeas and nays; and they were ordered.

The House determined that the main question should be now put—ayes 105, noes 90.

The main question was then taken on concurring in the amendment of the Senate, and decided in the affirmative, as follows:

YEAS.—Messrs. Allen, Landaff W. Andrews, Sherlock J. Andrews, Appleton, Arnold, Baker, Barnard, Barton, Birdseye, Blair, Boardman, Borden, Botta, Briggs, Brockway, Bronson, Milton Brown, Burnell, William Butler, William B. Campbell, Thomas J. Campbell, Caruthers, Casey, Childs, Chittenden, John C. Clark, Staley N. Clarke, James Cooper, Cowen, Cranston, Garrett Davis, Deberry, John Edwards, Everett, Fessenden, Fillmore, A. Lawrence Foster, Gamble, Gentry, Giddings, Goggin, Patrick G. Goode, Graham, Granger, Green, Hall, Halstead, Hudson, Hunt, Joseph R. Ingersoll, James Irvin, William W. Irwin, James, John P. Kennedy, Lane, Linn, McKennon, Samson Mason, Mattocks, Maxwell, Maynard, Mitchell, Moore, Morris, Morrow, Osborne, Owaley, Parmenter, Pendleton, Pope, Ramsay, Benjamin Randall, Randolph, Ridgway, Wm. Russell, James M. Russell, Saltonstall, Shepperd, Simonton, Slade, Truman Smith, Stanley, Stokely, Stratton, Alexander H. H. Stuart, John T. Stuart, Taliaferro, Richard W. Thompson, Tillinghast, Toland, Tomlinson, Triplett, Trumbull, Underwood, Van Rensselaer, Wallace, Warren, Washington, Edward D. White, Christopher H. Williams, Yorke, Augustus Young, and John Young—104.

NAYS.—Messrs. Adams, Arrington, Beeson, Bidlack, Black, Bowne, Brewster, Aaron V. Brown, Charles Brown, Burke, William O. Butler, Patrick C. Caldwell, John Campbell, Cary, Chapman, Clifford, Clinton, Coles, Mark A. Cooper, Cravens, Cross,

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Cushing, Daniel, Richard D. Davis, Dean, Doig, Eastman, John C. Edwards, Egbert, Ferris, John G. Floyd, Charles A. Floyd, Fornance, Thomas F. Foster, W. O. Goode, Gwin, Habersham, Harris, John Hastings, Hays, Hopkins, Houck, Houston, Howard, Hubard, Hunter, Charles J. Ingersoll, Jack, William Cost Johnson, Cave Johnson, John W. Jones, Keim, Andrew Kennedy, Lewis, Littlefield, Abraham McClellan, Robert McClellan, McKay, McKeon, Mallory, Marchand, Alfred Marshall, John Thomson Mason, Mathews, Medill, Meriwether, Miller, Newhard, Oliver, Patridge, Payne, Pickens, Plumer, Proffitt, Reding, Rencher, Reynolds, Rhett, Riggs, Rogers, Roosevelt, Sanford, Saunders, Shaw, William Smith, Snyder, Steenrod, Sweney, Turney, Van Buren, Ward, Weller, Joseph L. White, James W. Williams, Wise, and Wood—96.

So the amendment of the Senate was concurred in.

#### *The Apportionment Bill.*

John Tyler, jr., the President's private secretary, delivered to the House a Message from the President.

The Clerk read this communication; and it appeared to be one informing the House that he had signed the apportionment bill, and that he had filed his reasons for doing so in the State Department.

Mr. ADAMS said this Message was a novelty in the history of this country. The constitution required the President, if he approved a bill, to sign it, and not to accompany it with reasons. He spoke at great length on the dangerous precedent that might be thus set, and concluded by moving that the Message be referred to a select committee, with power to send for persons and papers.

#### IN SENATE.

MONDAY, JUNE 27.

#### *Death of the Hon. Mr. Hastings.*

On motion of Mr. EVANS, the reading of the Journal of Saturday was dispensed with.

A message was received from the House of Representatives, by its Clerk, announcing to the Senate the death of the Hon. WILLIAM S. HASTINGS, late a Representative from the State of Massachusetts; which, being read—

Mr. BATES addressed the Senate as follows:

Mr. President: As we advance in age, the notices of the death of those who have been of our acquaintance become more and more frequent; and, give me leave to add, more and more admonitory. During the present session of Congress, the House of Representatives has announced to the Senate the death of no less than four of its members; and the Senate has been pained by the loss of one of the most worthy, most respected, and most cherished of its own; and—it grieves me to think it—again of another. Mr. President, these events, although they cannot stop the progress of the hours upon the dial-plate, demand of us at least a pause—a pause for our own sake; and not

for our own sake merely—a pause that we may do what we can in our affliction, by respectful tokens of sympathy and regard, to mitigate the affliction of others, the relations and friends of the deceased.

Mr. HASTINGS, the subject of the message from the House, had been, from time to time, in ill health. A few weeks since, by the advice of his physician, he went to the springs in Virginia, in the hope that the use of the water would afford him relief. His hope was disappointed—as, sir, human hopes often are. He died on Friday, the 17th. The news of his death was received last Saturday.

Mr. HASTINGS was unobtrusive, unpretending, unostentatious, but of a very sound mind, and of great integrity and worth; most respected and most esteemed by those who knew him best. He was a native of the county of Worcester. For several years he was in the Senate of Massachusetts. As a member of Congress, he had the confidence of a most respectable constituency in the heart of the State; and well he deserved it. But, sir, all that we have now left us is to lament the loss of him, and do the customary honors to his memory.

Mr. B. concluded by offering the following resolutions, which, having been read, were unanimously adopted, viz:

*Resolved*, That the Senate has received with deep sensibility the communication from the House of Representatives, announcing the death of the Hon. WILLIAM S. HASTINGS, a representative from the State of Massachusetts.

*Resolved*, That, in token of sincere and high respect for the memory of the deceased, the Senate and its officers will wear crape upon the left arm, as mourning, for thirty days.

#### *Death of the Hon. Samuel L. Southard.*

Mr. MILLER rose, and addressed the Senate as follows:

Mr. President: I rise to add another shade of gloom to that which already pervades this body—to announce to you the sad intelligence of the death of my colleague, the Hon. SAMUEL L. SOUTHARD. He died yesterday, at 20 minutes before ten o'clock, at Fredericksburg, Virginia. It is but one short month since he occupied that honored seat which you now fill. He left us, to be sure, somewhat broken down in health and constitution, though he carried with him our sincere hopes and fervent prayers that, after a short relaxation from his official duties, he would be restored to us with renewed health. But it has pleased a mysterious Providence to order otherwise. Our hopes have been disappointed by the decree of Heaven. Death has separated him from us forever—from the scene of his usefulness, leaving us nothing but to mourn over him dead, whom it has been our delight to honor while living.

After announcing this sad intelligence, the feelings of my heart would prompt me to sit down in silence, leaving the life and the virtues of my deceased friend to be spoken of by others,

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until a more fitting occasion; for to speak now of the many honors which he deservedly acquired, the virtues he cultivated, and the talents he devoted for so many years to the service of his country, would only sharpen our grief, and deepen our sense of the calamity which has fallen upon us.

The Hon. SAMUEL L. SOUTHARD was born in 1787, in the county of Somerset, New Jersey. Born and reared under her free institutions—educated in her schools—a graduate of her colleges—he was, in principle and feeling, emphatically a Jerseyman. Deeply appreciating his worth, his native State, at an early period, called him into her public service. He was made Judge of the Supreme Court at an early age; and, after serving six years, with distinguished ability, he was, in 1821, elected as a Senator in Congress, in which capacity he served until President Monroe honored him by placing him in charge of the Navy Department, where his services were so highly appreciated that he continued to hold that office during Mr. Adams's administration. His conduct in that department is fully known to the country, and duly appreciated by the navy, the interests of which it was his honor and delight to foster and promote. On the retirement of Mr. Adams's cabinet, Mr. SOUTHARD returned to his native State, and she received him with all the affection due to a faithful and devoted son. After successively filling the offices of Attorney-General and Governor of that State, he was again elected a member of this body; and, after a public career of usefulness for twenty years, in the vigor of his mind, with ripened intellect, and in the enjoyment of the entire confidence of his fellow-Senators, it has pleased God to put an end to his mortal career. Another blow has been struck: another seat is vacant: another voice is silent! Afflictive as this blow is to us, it has fallen with tenfold severity upon that little and anxious circle which stood around his dying bed, and soothed—as far as human affection can soothe—his last moments. I do not intrude within the family circle to sympathize, but merely to speak of the private virtues which endeared him to his family and friends—of that intellect of high order, talents which could grasp the destinies of a nation—of those endearing virtues which drew around him sincere friends, and converted even enemies into friends.

Early impressed with the precepts of pious parents, their influence was never lost upon him through the course of his long and honored existence. Deeply impressed with the truths of Christianity, he was on all occasions its defender; and, we have reason to hope, he embraced the truths of our holy religion, to the saving of his immortal soul.

Mr. M. having concluded—

Mr. KING rose, and addressed the Senate as follows:

Mr. President: The eloquent and feeling manner in which the melancholy event has just

been announced to the Senate by the Senator from New Jersey, of the death of the distinguished individual—his friend and colleague, who is now no more—leaves me nothing to say. I will not, therefore, attempt, by any remarks of my own, to impair the force of that eloquence. It has been my fortune, for very many years, to be intimately acquainted with the distinguished man whose death has been just announced. I have known him in private life, and can bear testimony to his kindness of heart, amiableness of disposition, and uniform courtesy. I have known him in public stations, and can, with the same truthfulness, testify to his courtesy, and to the ability with which he discharged the various trusts confided to his care. But he is gone; and it becomes our duty—though it is a melancholy one—to pay to his memory that tribute of respect so deservedly due. I will not detain the Senate further, but move the following resolutions:

*Resolved, unanimously,* That a committee be appointed to take order for superintending the funeral of the honorable SAMUEL L. SOUTHARD, which will take place to-morrow at 12 o'clock; that the Senate will attend the same, and that notice thereof be given to the House of Representatives.

*Resolved, unanimously,* That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of the honorable SAMUEL L. SOUTHARD, deceased, late President *pro tempore* thereof, will go into mourning for him one month, by the usual mode of wearing crape on the left arm.

*Resolved, unanimously,* That, as an additional mark of respect for the honorable SAMUEL L. SOUTHARD, the Senate do now adjourn.

The question was put, and the resolutions were agreed to; and

The Senate then adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, June 27.

*Death of the Hon. Wm. S. Hastings, of Mass.*

The Chaplain to the Senate (the Rev. Septimus Tuston) commenced the day's proceedings with an affecting and impressive prayer, in which he delicately alluded to the melancholy events which had so recently taken place, in the death of a member of each branch of the National Legislature.

The journal of Saturday was then read: after which,

Mr. ADAMS rose, and spoke as follows:

Mr. Speaker: In the course of twelve years of public service in this hall, it has been my fortune too often to witness, with sympathizing sorrow, some member from one or other of the States of this Union other than that of my own nativity, rise from his seat, and, with agitated feelings, and in the accents of a trembling heart, announce to this assembly the departure, for a world of harmony and peace, of a respected and beloved colleague. It is always an impressive, a solemn, and an affecting scene; and

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*Veto Message of the President.*

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I have never beheld it but with an ejaculation of prayer to the Father of Spirits, that at least this cup might pass away from me; and that I might never be called, in the discharge of my duty, to perform so painful, so severe, a task. It has not so pleased the great Disposer of events. At the request of my colleagues on this floor, I am now required to announce to this House the death of WILLIAM SODEN HASTINGS, late a member of this body for the ninth congressional district of Massachusetts, and to move the resolutions of respect for his memory, on the part of this House, usual on similar occasions.

In the month of September, 1837, at the first and special session of the 25th Congress, Mr. HASTINGS first entered this hall as the Representative of a portion of the people of Massachusetts. That he continued to enjoy the confidence of his constituents, has been manifested by two successive elections to the same station. The same favor had been preceded by reiterated elections to both branches of the Legislature of the Commonwealth. It was a confidence in his talents and integrity, spreading and expanding in proportion to the experience of his worthiness of the trust. He came here in the prime and vigor of life, to all external appearance destined to a long and useful career of public service; taking an active and efficient, though not obtrusive, part in the deliberations of this body; and, amid all the conflicts, personal and political—which we all so deeply lament—making friends of all parties, in proportion as he became known to his associates in this hall; and, so far as I have known or heard, not one personal enemy to the day of his death.

In the descending line of the generations of men, Mr. HASTINGS was one step downwards from my own. More than thirty years ago, his father, then my personal and political friend, was a member of this body, while I was representing the Legislature of our native Commonwealth in the other branch of the National Legislature. In the ordinary course of human affairs, it would have been more to be expected that he should have been called to perform for me the melancholy office of afflicted friendship and respect which I am now performing for him. He first came here with a bodily frame robust and athletic; but, for the last two years, his health has been gradually declining. During a large portion of the present session of Congress, though faithfully here at his post, he has been disabled from giving his attendance at the daily meetings of this House; and, about one month since, as the ravages of the destroyer were encroaching upon the sources of life within him, he repaired to the Sulphur Springs in Virginia, in the faint hope of recovering by the effect of those salubrious waters; but, under the operation of irremediable disease, on the 17th of this month, he sank without a struggle into the repose of the grave, "by strangers honored and by strangers mourned."

Mr. HASTINGS was never married: his parents have long since paid the debt of nature. The

nearest and tenderest ties of human existence were not lacerated by his death; but he left a surviving brother—himself a man of the highest respectability, now, or recently, a member of the Senate of the Commonwealth of Massachusetts—and he left multitudes of friends, in whose memory he will live as long as life remains with them, as, I humbly hope and trust, he will live forever in the blessedness of a better world.

Mr. A. then submitted the following resolutions, which were unanimously adopted:

*Resolved*, That this House has heard with deep sensibility the death of the Hon. WILLIAM SODEN HASTINGS—a member of this House from the State of Massachusetts—which took place at the Red Sulphur Spring, in the State of Virginia, on the 17th instant.

*Resolved*, That the members of this House will testify their respect for the memory of the deceased, by wearing crane on the left arm for thirty days.

*Resolved*, That the Speaker of this House communicate to the Executive of the State of Massachusetts that a vacancy has occurred in the representation of the ninth congressional district of that State.

On motion by Mr. BRIGGS,  
The House adjourned.

TUESDAY, JUNE 28.

*Death of the Hon. Samuel L. Southard.*

A message was received from the Senate, announcing the death of the Hon. SAMUEL L. SOUTHARD, late a Senator of the United States from the State of New Jersey, and communicating the resolutions and arrangements for the funeral of the deceased adopted by that body.

Impressive addresses, suitable to the solemnity of the occasion, were delivered by Messrs. MAXWELL, of New Jersey, and ADAMS. After the adoption of the usual resolutions, (of which, as well as of the addresses, a copy could not be obtained,) the House adjourned, and proceeded in a body to the Senate chamber, to attend the funeral services there performed.

WEDNESDAY, JUNE 29.

*Veto Message of the President.*

Mr. CUSHING suggested that the House proceed to consider the Message of the President; and, no objection having been made, the Clerk read the Message, as follows:

*To the House of Representatives:*

I return the bill which originated in the House of Representatives, entitled "An act to extend, for a limited period, the present laws for laying and collecting duties on imports," with the following objections:

It suspends—in other words, abrogates for the time—the provision of the act of 1833, commonly called the "compromise act." The only ground on which this departure from the solemn

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adjustment of a great and agitating question seems to have been regarded as expedient, is the alleged necessity of establishing, by legislative enactments, rules and regulations for assessing the duties to be levied on imports, after the 30th June, according to the home valuation; and yet the bill expressly provides that "if, before the 1st of August, there be no further legislation upon the subject, the laws for laying and collecting duties shall be the same as though this act had not been passed." In other words, that the act of 1833, imperfect as it is considered, shall in that case continue to be, and to be executed, under such rules and regulations as previous statutes had prescribed, or had enabled the Executive Department to prescribe for that purpose, leaving the supposed chasm in the revenue laws such as it was before.

I am certainly far from being disposed to deny that additional legislation upon the subject is very desirable; on the contrary, the necessity as well as difficulties, of establishing uniformity in the appraisements to be made in conformity with the true intention of that act, was brought to the notice of Congress in my message to Congress at the opening of its present session. But however sensible I may be of the embarrassments to which the Executive, in the absence of all aid from the superior wisdom of the Legislature, will be liable, in the enforcement of the existing laws, I have not, with the sincerest wish to acquiesce in its expressed will, been able to persuade myself that the exigency of the occasion is so great as to justify me in signing the bill in question, with my present views of its character and effects. The existing laws, as I am advised, are sufficient to authorize and enable the collecting officers, under the directions of the Secretary of the Treasury, to levy the duties imposed by the act of 1833.

That act was passed under peculiar circumstances, to which it is not necessary that I should do more than barely allude. What may be, in theory, its character, I have always regarded it as imparting the highest moral obligation. It has now existed for nine years, unchanged in any essential particular, with as general acquiescence, it is believed, of the whole country, as that country has ever manifested for any of her wisely established institutions. It has insured to it the repose which always flows from timely, wise, and moderate counsels—a repose the more striking, because of the long and angry agitations which preceded it. This salutary law proclaims, in express terms, the principle which, while it led to the abandonment of a scheme of indirect taxation founded on a false basis, and pushed to dangerous excess, justifies any enlargement of duties that may be called for by the real exigencies of the public service. It provides "that duties shall be laid for the purpose of raising such revenue as may be necessary to an economical administration of the Government." It is therefore in the power of Congress to lay duties as high as its discretion may dictate, for the necessary uses of the Government, without infringing upon the objects of the act of 1833. I do not doubt that the exigencies of the Government do require an increase of the tariff of duties above 20 per cent.; and I as little doubt that Congress may, above as well as below that rate, so discriminate as to give incidental protection to manufacturing industry—thus to make the burdens which it is compelled to impose upon the people, for the pur-

poses of Government, productive of a double benefit. This, most of the reasonable opponents of protective duties seem willing to concede; and, if we may judge from the manifestations of public opinion in all quarters, this is all that the manufacturing interests really require. I am happy in the persuasion that this double object can be most easily and effectually accomplished, at the present juncture, without any departure from the spirit and principle of the statute in question. The manufacturing classes have now an opportunity, which may never occur again, of permanently identifying their interests with those of the whole country, and making them, in the highest sense of the term, a national concern. The moment is propitious to the interests of the whole country, in the introduction of harmony among all its parts and all its several interests. The same rate of imposts, and no more, as will most surely re-establish the public credit, will secure to the manufacturer all the protection he ought to desire, with every prospect of permanence and stability which the hearty acquiescence of the whole country, on a reasonable system, can hold out to him.

But of this universal acquiescence, and the harmony and confidence, and the many other benefits that will certainly result from it, I regard the suspension of the law for distributing the proceeds of the sales of the public lands as an indispensable condition. This measure is, in my judgment, called for by a large number, if not a great majority, of the people of the United States; by the state of the public credit and finances; by the critical posture of our various foreign relations; and, above all, by that most sacred of all duties—public faith. The act of September last, which provides for the distribution, couples it inseparably with the condition, that it shall cease—first, in case of war; second, as soon and so long as the rate of duties shall, for any reason whatever, be raised above 20 per cent. Nothing can be more clear, express, or imperative, than this language. It is in vain to allege that a deficit in the treasury was known to exist, and that means were taken to supply this deficit by loan when the act was passed. It is true that a loan was authorized at the same session during which the distribution law was passed; but the most sanguine of the friends of the two measures entertained no doubt but that the loan would be eagerly sought after and taken up by capitalists, and speedily reimbursed by a country destined, as they hoped, soon to enjoy an overflowing prosperity. The very terms of the loan, making it redeemable in *three years*, demonstrate this beyond all cavil. Who, at the time, foresaw or imagined the possibility of the present real state of things, when a nation that has paid off her whole debt since the last peace, while all the other great powers have been increasing theirs, and whose resources, already so great, are yet but in the infancy of their development, should be compelled to haggle in the money-market for a paltry sum not equal to one year's revenue upon her economical system? If the distribution law is to be indefinitely suspended, according not only to its own terms, but by universal consent, in the case of war, wherein are the actual exigencies of the country, or the moral obligation to provide for them, less under present circumstances, than they could be were we actually engaged in war? It appears to me to be the indispensable duty of all



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concerned in the administration of public affairs, to see that a state of things so humiliating and so perilous should not last a moment longer than is absolutely unavoidable. Much less excusable should we be in parting with any portion of our available means, at least until the demands of the treasury are fully supplied. But, besides the urgency of such considerations, the fact is undeniable, that the distribution act could not have become a law without the guarantee in the proviso of the act itself.

This connection, thus meant to be inseparable, is severed by the bill presented to me. The bill violates the principles of the acts of 1833, and September, 1841, by suspending the first, and rendering, for a time, the last inoperative. Duties above 20 per cent. are proposed to be levied, and yet the *proviso* in the distribution act is disregarded. The proceeds of the sales are to be distributed on the 1st of August; so that, while the duties proposed to be enacted exceed 20 per cent., no suspension of the distribution to the States is permitted to take place. To abandon the principle for a month, is to open the way for its total abandonment. If such is not meant, why postpone at all? Why not let the distribution take place on the 1st of July, if the law so directs? (which, however, is regarded as questionable.) But why not have limited the provision to that effect? Is it for the accommodation of the treasury? I see no reason to believe that the treasury will be in better condition to meet the payment on the 1st of August than on the 1st of July.

The bill assumes that a distribution of the proceeds of the public lands is, by existing laws, to be made on the 1st day of July, 1842, notwithstanding there has been an imposition of duties on imports exceeding 20 per cent. up to that day, and directs it to be made on the 1st of August next. It seems to me very clear that this conclusion is equally erroneous and dangerous; as it would divert from the treasury a fund sacredly pledged for the general purposes of the Government, in the event of a rate of duty above 20 per cent. being found necessary for an economical administration of the Government.

The bill under consideration is designed only as a temporary measure; and thus a temporary measure, passed merely for the convenience of Congress, is made to affect the vital principle of an important act. If the proviso of the act of September, 1841, can be suspended for the whole period of a temporary law, why not for the whole period of a permanent law? In fact, a doubt may be well entertained, according to strict legal rules, whether the condition, having been thus expressly suspended by this bill, and rendered inapplicable to a case where it would otherwise have clearly applied, will not be considered as ever after satisfied and gone. Without expressing any decided opinion on this point, I see enough in it to justify me in adhering to the law as it stands, in preference to subjecting a condition so vitally affecting the peace of the country, and so solemnly enacted at a momentous crisis, and so steadfastly adhered to ever since, and so replete, if adhered to, with good to every interest of the country, to doubtful or capacious interpretation.

In discharging the high duties thus imposed on me by the constitution, I repeat to the House my entire willingness to co-operate in all financial

measures, constitutional and proper, which in its wisdom it may judge necessary and proper to re-establish the credit of the Government. I believe that the proceeds of the sales of the public lands being restored to the treasury—or, more properly speaking, the proviso of the act of September, 1841, being permitted to remain in full force, a tariff of duties may easily be adjusted, which, while it will yield a revenue sufficient to maintain the Government in vigor, by restoring its credit, will afford ample protection, and infuse a new hope into all our manufacturing establishments. The condition of the country calls for such legislation, and it will afford me the most sincere pleasure to co-operate in it.

JOHN TYLER.

WASHINGTON, June 29, 1842.

A debate ensued, in which Messrs. W. COST JOHNSON, GRANGER, SALTONSTALL, FILLMORE, and CUSHING, took part; and the Message was ordered to be printed.

THURSDAY, June 30.

*The Provisional Tariff.*

The Message of the President of the United States received yesterday returning the provisional tariff bill, with his objections, was taken up; the question being that prescribed by the constitution, on ordering the Message to be inserted in the journal, and reconsidering the bill.

Mr. BRIGGS said that, by the law of March, 1832, called the compromise act, all the duties on the importation of foreign goods were on this day to be brought down to 20 per cent.; and that, after this day, the home valuation was to take effect, but under such rules and regulations as may be prescribed by law. From this he argued that the compromise act would be inoperative, because no rules and regulations had been provided by Congress for the home valuation. Under these circumstances, he examined the reasons given by the President, in his Message, for returning the bill, which he contended were entirely insufficient. Mr. B. then went into an argument, in which he defended the policy of distributing the proceeds of the public lands. He replied to the remarks of his colleague (Mr. CUSHING) in favor of the veto power. He referred to the fact, that the veto had not been called into requisition for one hundred and fifty years in Great Britain—a fact made use of by Mr. Madison in favor of granting this power to the President. He contrasted the opinions of Edmund Burke with those of his colleague, who thought that the “co-ordinate branch of the Government” at the other end of the Avenue might exercise the veto power at will.

Mr. STUART, of Virginia, argued against the use of the veto power as dangerous in the extreme. It effectually gave the President the power to say in what mode taxes should be levied. There were but three or four modes of raising

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revenue; and, by vetoing each as they might be adopted by Congress, he might thereby prescribe his own system, or sunder the Union. In the present instance, he could see no circumstance to justify, or in any manner palliate, the course of the President. This was a question affecting the dignity of the House; and, should it yield, there would be no necessity for Congress whatever. They had better send an address to his "gracious majesty" at once, and beg him to accede to their wishes. He begged that they would emulate the example of their Saxon ancestors in resisting the arbitrary will of one man.

Mr. PROFFER said: It was not his intention to occupy even the time which the rules of the House allotted to him; but to offer a very few remarks on the veto power, and on the circumstances attending its recent exercise; and he asked the gentlemen who contend against the veto, to make a fair and palpable issue before the people of the country, that the question might be known and decided at the next Presidential election. He was made aware—by a paper some time since issued by a portion of this House—that this question would be brought up before the country. But he hoped it would not be deemed unkind in him, if he said that those gentlemen were making the veto power unpopular, by forcing upon the President bills which they knew he could not sanction. Was that their present object? He trusted in God it was not. But really, to the people of the country, who looked on these things with an unjaundiced eye, it so appeared. There was not a gentleman on this floor who did not know that this veto would come; and if the great tariff bill, as it was called, should be passed with the clause in it which it now contained in reference to distribution, they knew well what would be its fate. Was there a gentleman on that floor who did not know that? (A voice cried out: "We'll give it him.") They had the power to do it. (A voice: "And we will do it.") He had no doubt such was their intention. But he (Mr. PROFFER) hoped wise and prudent counsels would prevail. He hoped they would act with a proper regard for the interests of the laborer, the farmer, the mechanic; and not, in a spirit of partisan warfare, send to the President measures which they knew he could not sanction.

Mr. LANE, of Indiana, spoke as follows: The issue was now truly presented between the President of the United States and the Representatives of the people. The Congress of the United States, with a sincere desire to provide the ways and means for carrying on the Government, had passed an act to continue in force the present revenue laws for one month; and the President, seeing fit to differ with them, upon mere grounds of expediency, had returned that bill to the House which originated it, with his objections. Then the question arose, In whom was vested the right to carry out the revenue measures of the Government?—in the

President, or in the Representatives of the people? The issue was not between the Congress of the United States and the President: it was between the President, who had proved recreant to every principle of truth, honor, and morality, and that abused constituency who had placed him in office. It was well that ours was a law-loving, law-abiding people: it was well that the constitutional and legal security thrown around him was strengthened by the peaceful disposition of the people. In other countries a far different spectacle would be presented.

This was another instance of the overwhelming strides of Executive power. If the proud eagle of American liberty should ever sink, it would be cloven down by the sword of the Executive. When the veto power was introduced, our forefathers did not look to Rome, but to the English Government, where the use of the veto was rare. What should Congress now do? Vote millions, when the President refuses to allow a cent to be raised? No; but let the people know that the President has annulled the revenue laws, disbanded the army and navy, and left the Government to shift for itself.

He contended that the whole object of the President looked to the succession; and he asked if the honest Democrats of the country were willing to surrender up all their principles merely for the sake of making John Tyler President a second term. It was but lately that the President had found out that the preservation of the compromise was an indispensable condition to the distribution of the proceeds of the public lands. In the Virginia Legislature—in the Henrico letter—in all the former declarations of the President, no such condition was annexed. This repeal of the distribution was one of the hard conditions on which the Democrats would give their support, and which the power of the President compelled him to accept.

## IN SENATE.

FRIDAY, July 1.

*The Tariff.*

Mr. BUCHANAN presented to the Senate the proceedings of a mass meeting of the citizens of Pittsburg and its vicinity, held on the 22d ultimo, in favor of a protective tariff. Mr. B. said that, from the names appended to the call for this meeting, (numbering, as they did, about fourteen hundred,) as well as from the names of its officers, and those who addressed it, there was no doubt that the meeting was what it purported to be, "without distinction of party." He would also say that, from his knowledge of the individuals who had composed this meeting, he believed they were men of as much intelligence, respectability, and moral worth, as any similar number which could be convened in any portion of the United States. The resolutions which they had adopted were all decidedly in favor of a protective tariff.

Mr. B. said he would take this occasion to remark, that since he had been in public life, there never had been so propitious a moment as the present for adjusting the tariff question upon a permanent and satisfactory basis. If the hopes of the country upon this subject were destined to defeat, it was now rendered manifest that it would be solely because of its forced and unnatural connection with the distribution of the proceeds of the public lands. The revenue necessary to meet the expenses of the Government, and gradually to extinguish the existing public debt, would require the imposition of duties sufficiently high to afford all the incidental protection to manufactures which they require. In the assessment of these duties, whilst revenue should be his main object, he would discriminate—and especially would he discriminate in favor of such manufactures as were essentially necessary to render us independent of foreign nations in time of war. He concurred entirely with General Jackson in his celebrated message to Congress of the 16th January, 1833, in relation to the South Carolina controversy,—that it would not be proper to provide that “the same rate of duty shall be imposed upon the protected articles that shall be imposed upon the unprotected; which, moreover, would be severely oppressive to the poor, and, in time of war, would add greatly to its rigors.” No civilized nation upon the face of the earth had ever adopted a uniform horizontal scale of duties, upon all articles, whether of great or small bulk or value, or whether their importation were prejudicial or beneficial to the country. And whilst he would not consent to raise one cent more of revenue than was necessary for an economical expenditure of the Government, he would discriminate, moderately and judiciously, in favor of all the great interests of the country, whether they were agricultural, mechanical, commercial, or manufacturing.

## HOUSE OF REPRESENTATIVES.

FRIDAY, July 1.

*The Veto Message on the Provisional Tariff.*

Mr. RHETT commenced by expressing his surprise at the doctrines avowed by the gentleman from Massachusetts, (Mr. ADAMS,) and the gentleman from New York, (Mr. GRANGER,) which he looked upon as subversive of the constitution. The latter gentleman, in speaking of the veto and its consequences, said, Let trouble and desolation sweep over the land, and see who would stand it best. He had watched the course of the debate, and heard the gentleman from Indiana (Mr. LANE) still further developing the course of policy expected from the dominant party. That gentleman went on to say that the people of this country, under the exercise of the veto power, were laboring under the most intolerable tyranny. The gentleman further said that, though the President had vetoed the provisional tariff bill, another

bill containing the same proviso with regard to the distribution of the proceeds of the public lands would be sent to him.

Let us meet this question (said Mr. R.) fairly. He trusted that there would be no gagging. They had come to the point when it was important that they should understand each other. He wanted his people to know how our system of Government was to be carried out, that they might be prepared for any emergency.

The gentleman from Tennessee had said that this veto was the result of a bargain between the Democratic party and the Executive. As a member of that party, he took upon himself to deny the charge; and he defied any man to show the slightest foundation for it. He knew that there were gentlemen here who were familiar with such bargains. From the year 1824, when the Presidential chair was reached through a bargain, and certain prospects were held out as a consideration for it, to this time, there had been several; and he was not surprised that gentlemen should charge against their political opponents what had been practised by their own parties. Had they not heard in the Congress of the United States a distinct proposition to bargain away the rights of the people? and that one mighty bill of corruption was made to pass another. Who did not know that the proviso to the distribution bill, which the President insisted on retaining, was the condition on which that bill was passed? Did not the gentleman from Kentucky throw out the emphatic declaration, that if you did not take his measures, he would not take yours? He did not, therefore, wonder that gentlemen, who carried their measures by such a system, should turn round and impugn their opponents for the same thing. But he declared that he never heard that a single member of the Democratic party had any communication with the President as to what he should do, and what they would do. On the contrary, every thing they had said to the President had been on that floor. We said to him, If you propose measures that we think right, we shall approve them; and if you propose measures that we think wrong, we shall condemn them. Every man on that floor knew what the Democratic party would do.

Mr. R. then took occasion to express the strongest disapprobation of the language which gentlemen had indulged in in reference to the President. Imputations had been made against him unworthy of the House and of the persons who uttered them; and all for the exercise of an undoubted right to discharge his duty according to the dictates of his own conscience. Mr. R. referred to the high stations he had filled, with so much honor to himself, the remembrance of which ought to have shielded him from such assaults. He remembered, when a distinguished Senator from his native State, he stood in opposition to the Force bill; and he, as a Carolinian, could not but feel grateful to him for the part he took on that occasion. He

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was a party to the compromise bill; and was it surprising that he should consider himself bound to carry it out in good faith?

He was the pride of his country, and was, moreover, a Virginian—a name never coupled with dishonor; and, to hear such unworthy imputations cast upon him, was what he must protest against. He was no follower of John Tyler; all who knew him knew that he had but little to do with the President, and that nothing more had ever passed between them than those acts of courtesy which he should always show to the man whom the people placed in the Executive chair; but it was his duty to do him justice; and to judge of him as he himself would be judged.

Mr. BARNARD took up in review the objections which the President had stated in his Message; and said he had read the Message again and again, to find out what the President meant; but he had not been able to do so; and he had serious doubts whether the President himself could explain what he meant. It was deemed necessary, as the President supposed, to establish, by legislative enactment, rules and regulations for assessing duties to be levied by imposts after the 30th of June; and having discovered this to be the object of the bill, the President declared it as his opinion that such an enactment was unnecessary, and that it would be better not to do that which was unnecessary, at the expense of the compromise act. Would it then be believed, and would not the world hear with astonishment, that in the bill there was not even the faintest allusion to the establishment of rules and regulations for the collection of duties according to the home valuation, and, consequently, that there was no such violation of the compromise act?

He also took up the objections of the President as they related to the principle of distribution; and he denied the truth of the position of the President that the proviso of the land law was suspended, it being the distribution only that was suspended. He alluded to the period at which this veto had been sent in. It was a period when importers might question the legality of the imposition of duties, and when they might refuse to pay, on the ground that no duty existed;—a period when collectors might seize the goods of importers, and when the courts might become embarrassed with the fearful amount of litigation which might ensue. And the exercise of the veto power, under such circumstances, had been undertaken by the President, and justified by some gentlemen on this floor.

SATURDAY, July 2.

*The Provisional Tariff.*

The SPEAKER announced, as the unfinished business, the Message of the President returning the provisional tariff bill, with his objections.

Mr. SMITH, of Virginia, said, in treating this question he should confine himself to certain public questions, and then address himself to those who had preceded him in debate, when he should take occasion to express the deep indignation and scorn of the unfair, unmanly, and ungenerous manner in which the Executive had been treated on this occasion. In doing so, he had not one personal feeling to gratify; but he should treat the subject with candor and fairness, and award justice where justice was due. In the first place, he should call the attention of the House to the act of 1833, commonly called the compromise act, because it was part and parcel of the subject he was treating, and because he entertained different opinions with regard to the meaning and intent of that law from those expressed by gentlemen on this floor; and, in some measure, he differed with the President himself in his construction of it. The view that he entertained of it was, that it was the great bond of peace to this Union; that to disturb or violate it, was an outrage that deserved the indignation of the world; and that those who believed that the preservation of that bond of union was essential to the peace and harmony of the country, were bound by every principle of honor and of patriotism to adhere to it.

He would now (Mr. S. said) proceed to the consideration of another part of the subject, which was the act of September, 1841, called the distribution act. What did that act say? with a view to preserve the character of this Legislature; with a view to preserve the faith pledged in this compromise inviolate, it was provided in that act, that whenever it should be found necessary to raise the duties beyond 20 per cent., the distribution should cease. Then there were two acts of solemn legislation on which the faith of the Legislature was equally pledged—the compromise act, passed under the circumstances he had adverted to; and the distribution act, passed with that solemn and express reservation for the purpose of preserving the faith pledged in the first. It was conceded on all hands that, without that proviso, the last-named act never could have passed the Senate; and it was also conceded that, without it, it could not have received the sanction of the President; and yet they saw gentlemen, after having got these measures, seeking to violate the solemn conditions on which they obtained them.

They had heard gentlemen, who were in favor of distribution, say to the manufacturing interests, that "unless you hold on to the distribution, you shall get no protection." He would ask gentlemen if there was any principle of honor or morality that would justify such an outrageous violation of the most solemn pledges ever entered into by man. Under the circumstances he had explained, this distribution bill was passed through this and the other House, and sent to the President for his signature. Mr. S. here adverted to the "race-horse

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speed" with which the measure was hurried through; and observed that, notwithstanding the plausible reasons given by the chairman of the Committee of Ways and Means for this hurried legislation, when sent to the Senate, it was suffered to remain on the table for several days, in order, as he supposed, that it might be passed at a period so near the 30th June, that the President would feel himself under the necessity of sanctioning it. The bill then went to the President under circumstances which induced a belief that the President was placed in such a situation as compelled him to sign it, and thus violate the faith he had pledged in the compromise act, as well as commit an act contrary to his known and recorded opinions. This, however, like many other attempts that had been made to head Captain Tyler, failed, and he returned the bill with his veto. What were the grounds on which his objections were placed? Mr. S. here went into a recapitulation of the reasons given by the President, in his veto Message, for returning the bill to the House in which it originated, explaining and commenting on them as he went on.

In relation to the distribution act, Mr. S. said that the President, who had been arraigned here as in favor of unqualified distribution, had expressly declared that he would go for it only so far as that it should not interfere with the compromise act. In 1841, when the distribution act was presented to him for his signature, he did not hesitate to give his assent to it; though he saw in the condition of the treasury good reasons for withholding it, yet he gave his assent to it, because it contained a proviso that the distribution was to be arrested the moment the duties should be raised above twenty per cent. Now, when he was called upon to give his assent to a bill involving a breach of the compromise act, and a breach of the distribution act, he would ask gentlemen if he was not under a high moral obligation to reject it, which he could not well have disregarded.

MONDAY, JULY 4.

*The Veto of the Provisional Tariff.*

The House then resumed the debate on the President's veto of the provisional tariff.

Mr. HUNTER said if there was nothing in the objection that the proceeds of the public lands ought of right, and of duty, to have gone to the States; if there was nothing in the objection that the President ought not to have vetoed the bill on grounds of expediency only; the other question which remained to be considered was, Was this such a bill as ought to have been vetoed? He maintained that this was such a bill; and, if there ever was a measure which a statesman and patriot was bound to arrest, this was one. Mr. H. referred to the condition of the country under which this bill was passed; to the clamor of the public creditors; the

difficulty in negotiating a loan; and the falling off of the revenue. He also noticed the estimates of the chairman of the Committee of Ways and Means and of the Secretary of the Treasury, in relation to the amount of revenue required for the service of the Government, for its ordinary expenses and for the public debt, for the present year. The chairman of the Committee of Ways and Means had introduced a bill for the purpose of raising twenty-seven millions of dollars, on an estimate of seventy-nine millions of imports; while the Secretary of the Treasury estimated the imports at ninety millions. But Mr. H. ventured to predict that this amount of revenue could not be raised, on account of the extent to which smuggling would be carried on, on the north-western frontier. Free trade would then prevail, in earnest—which would be a very fine thing, to be sure, for Buffalo; but what would it be for New York?—what would it be for Boston, Philadelphia, Baltimore, and Charleston? Would the Atlantic seaboard consent to be hermetically sealed, while free trade was pouring its riches into the north-west? He would warn gentlemen that their system would destroy the very subject of taxation itself, producing a spirit that would soon lead to some other mode of raising a revenue. If we cannot get along by the present means of raising revenue, and our expenditure is to be twenty-seven millions—what, then, is to be the result? If we do wisely, we should curtail our expenditures, take back the proceeds of the public lands, and collect a revenue by a system of duties laid solely for that object. What was the other alternative? A system of internal duties; and he would put it to gentlemen whether they would be willing to take direct taxation rather than give up distribution? Where would this system fall heaviest? Not on us, but on that rich country whose resources gentlemen so much boast of. If the system which gentlemen were so wedded to, should, in the end, destroy foreign commerce, dry up the sources of public revenue, and drive us to a system of direct taxation—as he verily believed it would—when that time came, the burden would fall on them. The question then was, of returning to the treasury the proceeds of the public lands, or of direct taxation? Can we blame the President, then, when—seeing the finances of the country embarrassed, and public credit prostrated—he takes the only measure in his power to relieve the one and restore the other? If the dominant party would take his advice, (and he would not pretend that he had a right to advise them,) they would meet an inevitable state of things by a wise and manly course. Here Mr. H. laid down the policy which he deemed best calculated for the interests of the country. The people were with the President in the acts which were so severely censured. They do not (said Mr. H.) distrust your patriotism or your talents; but they believe that your system is not calculated for the benefit of the country.

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The question was then taken, "Shall this bill pass, notwithstanding the objections of the President?" and decided in the negative—there not being a majority of two-thirds—as follows:

YEAS.—Messrs. Allen, L. W. Andrews, Sherlock J. Andrews, Appleton, Arnold, Aycrigg, Babcock, Baker, Barnard, Barton, Birdseye, Blair, Boardman, Borden, Briggs, Brockway, Bronson, M. Brown, J. Brown, Burnell, William Butler, William B. Campbell, Thomas J. Campbell, Caruthers, Casey, Childs, Chittenden, John C. Clark, Staley N. Clarke, James Cooper, Cowen, Garrett Davis, Deberry, John Edwards, Everett, Fessenden, Fillmore, A. L. Foster, Gamble, Gentry, Giddings, Goggin, P. G. Goode, Graham, Granger, Green, Hall, Halsted, Howard, Hudson, Hunt, J. R. Ingersoll, James Irvin, W. W. Irwin, James, John P. Kennedy, King, Lane, Linn, McKennan, Thomas F. Marshall, Samson Mason, Mathiot, Mattocks, Maxwell, Maynard, Meriwether, Mitchell, Moore, Morgan, Morris, Morrow, Osborne, Owsley, Pearce, Pendleton, Pope, Powell, Ramsay, Benjamin Randall, A. Randall, Randolph, Ridgway, Rodney, Wm. Russell, James M. Russell, Saltonstall, Shepperd, Slade, Truman Smith, Sollers, Sprigg, Stanly, Stokely, Stratton, Alexander H. H. Stuart, John T. Stuart, Summers, Taliaferro, John B. Thompson, R. W. Thompson, Tillinghast, Toland, Tomlinson, Triplett, Trumbull, Van Rensselaer, Wallace, Warren, Washington, Edward D. White, Christopher H. Williams, Joseph L. Williams, and John Young—114.

NAYS.—Messrs. Adams, Arrington, Atherton, Bidlack, Black, Bowne, Boyd, Brewster, Burke, William O. Butler, Green W. Caldwell, P. C. Caldwell, John Campbell, Chapman, Clifford, Clinton, Coles, M. A. Cooper, Cravens, Cushing, Daniel, Richard D. Davis, Dawson, Dean, Doan, Doig, Eastman, Egbert, Ferris, Charles A. Floyd, Fornance, T. F. Foster, Gerry, Gilmer, Wm. O. Goode, Gordon, Gwin, Habersham, Hastings, Hays, Holmes, Hopkins, Houck, Houston, Hubard, Hunter, C. J. Ingersoll, Jack, Cave Johnson, John W. Jones, Keim, Andrew Kennedy, Lewis, Littlefield, Robert McClellan, McKay, McKeon, Malory, Marchand, Alfred Marshall, J. T. Mason, Mathews, Medill, Miller, Newhard, Patridge, Payne, Pickens, Plumer, Read, Reding, Rencher, Reynolds, Rhett, Riggs, Rogers, Roosevelt, Sanford, Saunders, Shaw, Shields, William Smith, Snyder, Steenrod, Sumter, Jacob Thompson, Van Buren, Ward, Waterson, Weller, Westbrook, Joseph L. White, James W. Williams, Wise, and Wood—97.

The House adjourned.

IN SENATE.

THURSDAY, July 7.

*The Exchequer Bill.*

Mr. TALLMADGE said he rose for the purpose of giving notice that, on Monday next, he would move to postpone the general orders, for the purpose of taking up the bill proposing to modify the several acts establishing the Treasury Department, commonly called the "exchequer bill." He gave this notice then, in the hope that gentlemen would be prepared to take the bill up at that time. He thought it was pertinent to say that the bill had been postponed for a

long time, for no other reason than that there were matters before the Senate of a more pressing character. At the time the bill was introduced, the several resolutions of the late Senator from Kentucky (Mr. CLAY) were occupying the attention of the Senate. It was the wish on the part of all not to interfere with those resolutions. Since that time, the loan bill, the apportionment bill, the army and navy bills, and a variety of other matters, of pressing necessity and urgency, have taken up the time of the Senate. He determined that it was not proper to move in this bill while those matters, which were deemed of a more immediate and pressing character, were pending. He believed that there was now no measure for the relief of the country, which more pressingly required the consideration of this body, than the exchequer bill. He would therefore give notice that, on Monday, he would in good faith move to take up this bill, and press action until an expression of the opinion of the Senate was had upon it.

HOUSE OF REPRESENTATIVES.

THURSDAY, July 7.

*The Tariff.*

The House resolved itself into a Committee of the Whole on the state of the Union, (Mr. McKENNAN in the chair,) and proceeded with the consideration of the bill to provide revenue from imports, and to change and modify existing laws, imposing duties on imports, and for other purposes.

Mr. WM. COST JOHNSON, after a few preliminary remarks, said that he should take this opportunity to apprise the committee that, at the first moment allowed him, he should offer a resolution calling for a Select Committee for the purpose of taking into consideration the present interests of the country, and to report a bill providing for giving relief both to the General and State Governments. If the House should grant him that committee, he should not offer any amendment to the bill under consideration; but, if it should refuse to do so, he should bring forward his proposition in the most formal and distinct manner, as an amendment to the bill, before it was disposed of. He would say to gentlemen of every party here, that all efforts would be vain and fruitless to keep this question from bold and free inquiry. To attempt to hide it, and exclude it from the public gaze and public consideration, would be vain and nugatory. They might as well attempt to stifle the hoarse voice of Boreas, or bid the mighty Mississippi cease to flow on, as it would forever. He regarded the question as one broader and deeper than any one of those which divided the different parties of the country. If gentlemen were anxious, at this early period, to record their names against it, he was as anxious to give them the opportunity.

Mr. J., in the course of his remarks, gave an outline of the plan he intended to propose, viz:

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Memorial.

[27TH CONG.]

that Government stocks should be issued, bearing a particular interest; and that these stocks should be given to the States, (as well to those indebted as to those out of debt,) to an amount not, perhaps, sufficient to give them ample relief, but sufficient, with the aid of their own resources, to enable them to meet their engagements, and re-establish their credit.

The States not indebted would have the interest of the stocks given them, as also the principal, when finally redeemed, to apply to such objects as they deemed most for their advantage; so that both the indebted and non-indebted States would be put on a footing of perfect equality: the public lands to be pledged for the redemption of the principal and interest of the stocks so issued.

As a further part of his plan, Mr. J. would propose a tariff laid for the purpose of giving adequate protection to domestic manufactures. He thought that a calm and deliberate examination would be sufficient to induce any statesman to believe that his plan was at once simple, and, in its consequences, benign and salutary. He would not discuss it, but would say, in advance, that the question of constitutionality would hardly be raised by any party. Mr. J. said that his plan, so far from being a novel one, had the benefit of several precedents in the history of the Government to recommend it: and he then referred to the assumption by the Federal Government of the revolutionary debts of the States; and to the treaties of 1783 and 1794, in which provision was made for enabling individual creditors in England to recover debts from individuals in this country. He also referred to the assumption by Congress, a few years ago, of the Holland debt due by the corporate cities of the District of Columbia. Mr. J. then continued his argument in favor of his plan of assumption up to the expiration of his hour.

## IN SENATE.

MONDAY, July 11.

*Mexico.*

Mr. PRESTON offered the following resolution:

*Resolved*, That the President of the United States be requested, if it be not inconsistent with the public interest, to communicate to the Senate the recent correspondence between the Republic of Mexico and this Government in relation to Texas.

He would ask the consent of the Senate to enter upon the consideration of the resolution this morning, inasmuch as the subject is one of deep national interest. It calls for information which may demand the immediate attention of this body.

He was sure a majority of the Senators present had seen, in the public papers this morning, the translation of a letter addressed by the Secretary of Foreign Relations of the Republic of Mexico to the Secretary of State

of the United States, but published at Mexico before it had left that country for the United States.

This extraordinary letter, he felt constrained to say, was calculated to excite great anxiety in this country. It appeared to him there was an obvious necessity, under the circumstances, for Congress to be placed in possession of full information on the subject—at least so far as the Executive may judge is compatible with the public interest to make the communication required. It is desirable that Congress should know, as speedily as practicable, what has taken place between the constituted authorities of both countries.

He would beg leave to read a single paragraph towards the conclusion, for the purpose of showing the character and temper of the letter to which he had alluded. After detailing what the Mexican Secretary of State supposes to have been the conduct of the United States Government with regard to Texas, the writer proceeds to make these remarks:

"Such conduct the Mexican Government cannot comprehend; and although animated with a sincere desire that the relations now happily existing between this Republic and the United States may not suffer the least alteration, it feels bound, in frankness, to repeat, in the most formal manner, its former protest against the tolerance before mentioned, a continuance of which it will regard as a positive act of hostility against this Republic, and will regulate its conduct as justice, its own interests, and the national dignity may demand."

Now, it must be obvious to every Senator, that the force of the sentence consists in the implied threat. It amounts to this—that a continuation of the condition of things complained of will be considered as authorizing hostilities.

A declaration of this nature, made in a manner so formal and official, presented, in his opinion, a matter for the gravest consideration. He trusted—indeed, he had no doubt—that the Government of the United States had answered this communication in a manner becoming its own dignity, and in that temper of forbearance which should ever characterize the conduct of a powerful nation dealing with one like Mexico. But, while he trusted that this Government had answered Mr. Bocanegra's letter with forbearance, he felt satisfied it had been done with a just regard to our own dignity, and with that firmness which the occasion required.

The question was then taken on the resolution, and it was adopted.

## IN SENATE.

TUESDAY, July 12.

*Memorial.*

Mr. BUCHANAN presented a memorial from James Reeside, by his attorney in fact, Mr. ——. Mr. B. said Mr. Reeside was well known

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*Correspondence in relation to Texas.*

[JULY, 1842.]

throughout the United States as the "land admiral," from his extensive transactions with the Post Office Department. It is represented in the memorial that he furnished money to the department at different times; and, after a failure to have his accounts adjusted at the department, it was finally agreed that they should be settled by bringing a suit; which was done. The trial commenced in October, 1841, and ended on the 6th December following—having occupied a period of six weeks. And the result of the trial was a verdict entered in his favor for \$186,496 06. A motion for a new trial succeeded, and the claim was affirmed. He asks Congress to pay the amount thus found due to him—stating, at the same time, that there were \$50,000 clearly due to him besides; and that eleven of the jury thought so. The memorial was referred to the Committee on the Post Office and Post Roads.

THURSDAY, July 14.

*Correspondence in relation to Texas.*

The PRESIDENT *pro tem.* laid before the Senate a Message from the President of the United States, made in compliance with a resolution of the Senate of the 11th instant, transmitting the recent correspondence between the Republic of Mexico and this Government, in relation to Texas.

The correspondence was of an interesting and important character, and very voluminous, having occupied nearly two hours in the reading. Mr. Webster's letter of instruction of 8th of July, 1842, to Mr. Waddy Thompson, our Minister at Mexico, in reply to the first letter of M. de Bocanegra, (already published,) covers the whole ground of Mexican outrages on the citizens and commerce of the United States. Its tone may be inferred from the following extract from it, covering one point only of the letter of M. de Bocanegra, viz:

"M. de Bocanegra declares, in conclusion, that his Government finds itself under the necessity of protesting solemnly against the aggressions which the citizens of the States are reiterating upon the Mexican territory; and of declaring, in a positive manner, that it will consider as a violation of the treaty of amity, the toleration of that course of conduct, which he alleges inflicts on the Mexican Republic the injuries and inconveniences of war.

"The President exceedingly regrets both the sentiment and the manner of this declaration. But it can admit of but one answer. The Mexican Government appears to require that which could not be granted, in whatever language or whatever tone requested.

"The Government of the United States is a Government of law. The Chief Executive Magistrate, as well as the functionaries in every other department, is restrained and guided by the constitution and the laws of the land. Neither the constitution nor the law of the land, nor principles known to the usages of modern States, authorize him to interdict lawful trade between the United States and Texas; or to prevent, or attempt to prevent, individuals from

leaving the United States for Texas or any other foreign country. If such individuals enter into the service of Texas, or any other foreign State, the Government of the United States no longer holds over them the shield of its protection. They must stand or fall in their newly assumed character, and according to the fortunes which may betide it. But the Government of the United States cannot be called upon to prevent their emigration; and, it must be added, that the constitution, public treaties, and the laws, oblige the President to regard Texas as an independent State, and its territory as no part of the territory of Mexico. Every provision of law—every principle of neutral obligation—will be sedulously enforced in relation to Mexico, as in relation to other powers, and to the same extent, and with the same integrity of purpose. All this belongs to the constitutional power and duty of the Government, and it will be all fulfilled. But the continuance of amity with Mexico cannot be purchased at any higher rate. If the peace of the two countries is to be disturbed, the responsibility will devolve on Mexico. She must be answerable for consequences. The United States, let it be again repeated, desire peace. It must be with infinite pain that they should find themselves in hostile relations with any of the new Governments on this continent. But their Government is regulated, limited, full of the spirit of liberty, but surrounded, nevertheless, with just restraints; and, greatly and fervently as it desires peace with all States—and especially with its more immediate neighbors—yet no fear of a different state of things can be allowed to interrupt its course of equal and exact justice to all nations, nor to jostle it out of the constitutional orbit in which it revolves.

"I am, sir, &amp;c.,

"DANIEL WEBSTER."

The following letter, comprising a part of the instructions to our Minister at Mexico, is in answer to the second letter of complaint and defiance of M. de Bocanegra.

DEPARTMENT OF STATE,  
Washington, July 13, 1842.

SIR: After writing to you on the 8th instant, I received, through the same channel as the former, M. de Bocanegra's second letter, and, at the same time, your despatch of the 6th of June, and your private letter of the 21st. This last letter of M. de Bocanegra was written, as you will see, before it was possible for him to expect an answer to his first; which answer is now forwarded, and shows the groundless nature of the complaints of Mexico. The letter itself is highly exceptionable and offensive. It imputes violations of honor and good faith to the Government of the United States, not only in the most unjust, but in the most indecorous manner.

You have not spoken of it in terms too strong in your circular to the members of the diplomatic corps.

On the receipt of this, you will write a note to M. Bocanegra, in which you will say that the Secretary of State of the United States, on the 9th of July, received his letter of the 27th of May; that the President of the United States considers the language and tone of that letter derogatory to the character of the United States, and highly offensive, as it imputes to the Government a direct breach of faith; and that he directs that no other answer be given to it than the declaration that the conduct of the Government of the United States, in regard to the war between



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*The Tariff.*

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Mexico and Texas, having been always hitherto governed by a strict and impartial regard to its neutral obligations, will not be changed or altered, in any respect, or in any degree. If, for this, the Government of Mexico shall see fit to change the relations at present existing between the two countries, the responsibility remains with herself.

I am, sir, your obedient servant,  
DANIEL WEBSTER.

To WADDY THOMPSON, Esq.,  
Envoy Extraordinary, &c., to Mexico.

The Message was referred to the Committee on Foreign Relations, and ordered to be printed.

SATURDAY, July 16.

*Case of Samuel Swartwout.*

On motion of Mr. WRIGHT, the Senate took up for consideration, as in Committee of the Whole, the bill to authorize the Secretary of the Treasury to make any arrangement or compromise with any of the sureties on bonds given to the United States by Samuel Swartwout, late collector of the customs for the port of New York.

Mr. W. explained that the bill merely authorized the Secretary of the Treasury to compound with the sureties of Swartwout, which would have the effect to bring \$25,000 into the treasury, which would be lost to the Government if the bill did not prevail.

The bill was then reported back to the Senate, and ordered to be engrossed for a third reading.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, July 16.

*The Tariff.*

The question came up for the engrossment of the bill for a third reading.

The yeas and nays were ordered, and resulted in the affirmative, as follows:

YEAS.—Messrs. Adams, Allen, Landaff W. Andrews, Sherlock J. Andrews, Appleton, Arnold, Ayer, Babcock, Baker, Barnard, Barton, Birdseye, Blair, Boardman, Borden, Botts, Briggs, Brockway, Bronson, Jeremiah Brown, Burnell, Calhoun, Thomas J. Campbell, Childs, Chittenden, John C. Clark, S. N. Clarke, Jas. Cooper, Cowen, Cranston, Cravens, Cushing, G. Davis, John Edwards, Everett, Fessenden, Fillmore, A. Lawrence, Foster, Gates, Gentry, Giddings, Goggin, Patrick G. Goode, Graham, Granger, Green, Hall, Halsted, Howard, Hudson, Joseph R. Ingersoll, James Irvin, Wm. W. Irwin, James Wm. C. Johnson, Isaac D. Jones, John P. Kennedy, Lane, Linn, McKennan, T. F. Marshall, Samson Mason, Mathiot, Mattocks, Maxwell, Maynard, Moore, Morgan, Morris, Morrow, Osborne, Owaley, Parmenter, Pearce, Pendleton, Pope, Powell, Ramsay, Benjamin Randall, Alexander Randall, Randolph, Ridgway, Rodney, William Russell, James M. Russell, Saltonstall, Shepperd, Simonton, Slade, Truman Smith, Sollers, Sprigg, Stanly, Stokeley, Stratton,

Alexander H. H. Stuart, John T. Stuart, Summers, Taliaferro, John B. Thompson, Richard W. Thompson, Tillinghast, Toland, Tomlinson, Triplett, Trumbull, Underwood, Van Rensselaer, Wallace, Washington, Edward D. White, Joseph L. White, Joseph L. Williams, Yorke, Augustus Young, and John Young—116.

NAYS.—Messrs. Arrington, Atherton, Beeson, Bidlack, Black, Bowne, Boyd, Brewster, Aaron V. Brown, Milton Brown, C. Brown, Burke, S. H. Butler, Wm. Butler, Wm. O. Butler, G. W. Caldwell, P. C. Caldwell, J. Campbell, W. B. Campbell, Caruthers, Cary, Casey, Chapman, Clifford, Clinton, Coles, Mark A. Cooper, Cross, Daniel, Richard D. Davis, Dawson, Dean, Deberry, Doan, Doig, Eastman, John C. Edwards, Egbert, John G. Floyd, Charles A. Floyd, Fornance, Thomas F. Foster, Gamble, Gerry, Gilmer, William O. Goode, Gordon, Gustine, Gwin, Habersham, Harris, Hastings, Hays, Holmes, Hopkins, Houck, Houston, Hubard, Hunter, C. J. Ingersoll, Jack, Cave Johnson, John W. Jones, Keim, Andrew Kennedy, King, Lewis, Littlefield, Abraham McClellan, Robert McClellan, McKay, McKeon, Mallory, Marchand, Alfred Marshall, John Thomson Mason, Mathews, Medill, Meriwether, Miller, Mitchell, Newhard, Patridge, Payne, Pickens, Plumer, Read, Reding, Rencher, Rhett, Riggs, Rogers, Roosevelt, Sanford, Saunders, Shaw, Shields, William Smith, Snyder, Steenrod, Sumter, Jacob Thompson, Turney, Van Buren, Ward, Warren, Watterson, Weller, James W. Williams, Christopher H. Williams, and Wood—111.

The House decided that the bill should have its third reading "now."

The question then recurred on the passage of the bill; on which the yeas and nays were called for, and resulted as follows:

YEAS.—Messrs. Adams, Allen, Landaff W. Andrews, Sherlock J. Andrews, Appleton, Arnold, Ayer, Babcock, Baker, Barnard, Barton, Birdseye, Blair, Boardman, Borden, Botts, Briggs, Brockway, Bronson, Jeremiah Brown, Burnell, Calhoun, Thomas J. Campbell, Childs, Chittenden, John C. Clark, Staley N. Clarke, James Cooper, Cowen, Cranston, Cravens, Cushing, Garrett Davis, John Edwards, Everett, Fessenden, Fillmore, A. Lawrence, Foster, Gates, Gentry, Giddings, Goggin, Patrick G. Goode, Graham, Granger, Green, Hall, Halsted, Howard, Hudson, Joseph R. Ingersoll, James Irvin, William W. Irwin, James, William Cost Johnson, Isaac D. Jones, John P. Kennedy, Lane, Linn, McKennan, Thomas F. Marshall, Samson Mason, Mathiot, Mattocks, Maxwell, Maynard, Moore, Morgan, Morris, Morrow, Osborne, Owaley, Parmenter, Pearce, Pendleton, Pope, Powell, Ramsay, Benjamin Randall, Alexander Randall, Randolph, Ridgway, Rodney, William Russell, James M. Russell, Saltonstall, Shepperd, Simonton, Slade, Truman Smith, Sollers, Sprigg, Stanly, Stokeley, Stratton, Alexander H. H. Stuart, John T. Stuart, Summers, Taliaferro, John B. Thompson, Richard W. Thompson, Tillinghast, Toland, Tomlinson, Triplett, Trumbull, Underwood, Van Rensselaer, Wallace, Washington, Edward D. White, Joseph L. White, Joseph L. Williams, Yorke, Augustus Young, and John Young—116.

NAYS.—Messrs. Arrington, Atherton, Beeson, Bidlack, Black, Bowne, Boyd, Brewster, Aaron V. Brown, Milton Brown, Charles Brown, Burke, Sampson H. Butler, William Butler, William O. Butler, Green W.

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*Repeal of the Bankrupt Law.*

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Caldwell, Patrick C. Caldwell, John Campbell, William B. Campbell, Caruthers, Cary, Casey, Chapman, Clifford, Clinton, Coles, Mark A. Cooper, Cross, Daniel, Richard D. Davis, Dawson, Dean, Deberry, Doan, Doig, Eastman, John C. Edwards, Egbert, John G. Floyd, Charles A. Floyd, Fornance, Thomas F. Foster, Gamble, Gerry, Gilmer, William O. Goode, Gordon, Gustine, Gwin, Habersham, Harris, Hastings, Hays, Holmes, Hopkins, Houck, Houston, Hubbard, Hunter, C. J. Ingersoll, Jack, Cave Johnson, John W. Jones, Keim, Andrew Kennedy, King, Lewis, Littlefield, Abraham McClellan, Robert McClellan, McKay, McKeon, Mallory, Marchand, Alfred Marshall, John Thomson Mason, Mathews, Medill, Meriwether, Miller, Mitchell, Newhard, Patridge, Payne, Pickens, Plumer, Read, Reding, Rencher, Reynolds, Rhett, Riggs, Rogers, Roosevelt, Sanford, Saunders, Shaw, Shields, Wm. Smith, Snyder, Steenrod, Sumter, Jacob Thompson, Turney, Van Buren, Ward, Warren, Watterson, Weller, James W. Williams, Christopher H. Williams, and Wood—112.

Mr. J. COOPER moved a reconsideration, and on that he asked the previous question; which was sustained by the House, and the reconsideration was negatived.

## IN SENATE.

MONDAY, July 18.

*The Great Tariff Bill.*

A message was received from the House, transmitting the bill to provide revenues from imports, and to change and modify existing laws imposing duties on imports, and for other purposes. The bill was read twice, and,

On motion of Mr. EVANS, referred to the Committee on Finance, and the bill ordered to be printed.

*Repeal of the Bankrupt Law.*

Mr. BENTON made his promised motion asking leave to introduce a bill to repeal the bankrupt act of 1841, and supported his motion in a speech of near two hours. His motion was to repeal the bill for unconstitutionality, leaving it in force for completing cases now depending under the limitations which would free it from unconstitutionality. The points of unconstitutionality on which he particularly dwelt were: 1. The discharge from debts without the consent of creditors. 2. The infringement of the State insolvent laws. 3. The abolition of liens under the State laws. He undertook to show that the act was framed upon the English insolvent debtors act of the 1st of George IV., and read many sections from that to prove that our bankrupt act was taken from it; and that our act was, consequently, not a bankrupt system, but the English insolvent act, perverted to an abolition of debts. He gave a close and severe examination to the arguments in favor of the bill, especially Mr. Webster's; and disputed them both, on reason and authority. He said their object was an abolition of debts, and so avowed; and read extracts from Mr. Webster's speech of 1840 to

show it. That, to get at this abolition of debts, it was necessary to establish two main positions: *first*, that insolvency and bankruptcy were the same—thereby gaining for Congress jurisdiction over insolvencies, under the pretext of the bankrupt power; *secondly*, to establish the unlimited power of Congress over the whole question, subject only to local uniformity; and by virtue of that unlimited power, a right to discharge the debt without the consent of the creditors. Mr. B. followed the arguments of the friends of the bill to the civil law, the Scottish law, and the English law, and showed that insolvency and bankruptcy were everywhere distinct; that, under our system, insolvencies belonged to the States, and bankruptcies to the General Government; that one discharged the person on surrender of property, the other discharged the debt with the consent of a majority of creditors in number and value. And he averred there was not a bankrupt system on earth, except our act of 1841, which undertook to discharge the debt without the consent of the creditors. He denied the validity of such discharges, and said that if he were a judge, he would pay no more attention to them than to a chapter from Gulliver's Travels. He reviewed the doctrine of the *cessio bonorum*, and showed that it was nothing but our insolvent law; that it was introduced by Julius Cæsar, to mitigate the hard fate of debtors in Rome, by releasing their persons on the surrender of their property, and to save the commonwealth from the seditions and conspiracies which were founded upon the sufferings of the debtor classes, and which had so convulsed the State, from the secession of the people when they retired to the *Mons Sacer*, to the time of the great conspiracy of Catiline. He showed that the *cessio* of the civil law had been wrongly quoted, and that the law of all Europe and of the whole world was against our act; that in England four-fifths of the creditors in number and value, with a judicial certificate of integrity, were necessary to discharge a bankrupt of his debts; that in France it was the same; that in our act of 1800, the consent of two-thirds, and the same certificate were required; and that the civil law was still more strict. But it is impossible, in this brief notice, even to state all the points of this speech.

Mr. BERRIEN referred to the joint rule which requires the consent of two-thirds of the Senate, in cases of application for leave to introduce a bill to effect an object decided against in the same session. He had listened with great attention to the arguments just enforced by the Senator from Missouri; but had failed to discover in them any thing that had not been urged, and fully discussed and considered, when the bankrupt bill was on its passage. The same arguments were also repeatedly urged during the discussions on the subject when the bankrupt question was before the last Congress. After all this, the law as it now

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*Pension Laws.*

[27TH CONG.]

stands, has been solemnly sanctioned; and he could therefore see no new grounds for encouraging a re-agitation not likely to effect any thing practical. Even if the present session had not been so far advanced, he thought the Senate would at once perceive that its time ought not to be thrown away on discussions so recently and so amply considered and decided upon. He hoped, therefore, the leave requested would not be granted.

The question was then taken on Mr. BEN-  
TON's motion, and the vote, by yeas and nays,  
was as follows:

**YEAS.**—Messrs. Allen, Bagby, Benton, Buchanan, Calhoun, Cuthbert, Fulton, Graham, King, Linn, McRoberts, Rives, Sevier, Smith of Connecticut, Sprague, Sturgeon, Walker, Wilcox, Woodbury, Wright, and Young—21.

**NAYS.**—Messrs. Barrow, Bates, Berrien, Choate, Clayton, Conrad, Crafts, Crittenden, Dayton, Evans, Henderson, Huntington, Ker, Mangum, Merrick, Miller, Morehead, Porter, Simmons, Smith of Indiana, White, and Woodbridge—21.

So, two-thirds not voting in the affirmative, leave to introduce the bill was not granted.

TUESDAY, July 19.

*Pension Laws.*

House bill No. 165, entitled "An act for the relief of Sarah Bealy, widow of William Bealy, deceased, and, previous, thereto, widow of Doctor Henry Adams," was taken up, and considered as in Committee of the Whole.

Mr. GRAHAM thought, as there was a general law in preparation which would embrace this case, it would be well perhaps to withhold the present bill.

Mr. BATES pointed out that the bill had been so nearly matured, and so many bills of a similar nature, resting solely on the same principle, had been passed this session, that to delay the present claim would be an invidious distinction, and might prove ultimately unjust, as the general bill on the subject might not be adopted when it came up.

Mr. LINN asked if the principle on which the bill was founded, was considered by the Committee on Pensions a settled question. If it was not clearly recognized by the pension law, he thought a very troublesome precedent might be established; and he was not prepared to vote for creating a new class of cases.

A general discussion ensued on the subject; those in favor of the bill before the Senate contending that Mrs. Bealy's case was exactly similar to cases admitted and acted favorably upon by Congress hitherto; and that therefore it would be an unjust exception to delay or place in jeopardy this meritorious claim. The general bill in preparation, it was contended, would be proceeded with at the convenience of Congress, and would not be affected by the passage of this special bill. Those who supported this view of the subject were Messrs. BATES, HUNTINGTON, and SIMMONS.

On the other hand, it was contended that it was always better, whenever Congress could do it, to legislate by general principles, than by special cases, in which appeals were made to personal feelings and sympathies. If the principle was right, it should embrace all cases of the kind: if not right and proper on general grounds, there could be no knowing how to act on special cases, without great partiality or injustice to those excluded. Messrs. GRAHAM and BUCHANAN supported this view of the subject.

The danger of opening a new door to claims on the pension list was ably urged by Messrs. WRIGHT and CALHOUN. They contended that no such construction should be given to the law of 1838, as that it was intended to extend to cases of this kind.

It appeared that the permanent pension law of 1836 was intended to be for the benefit of widows of revolutionary soldiers, married at the time of the revolutionary war; in consideration of the hardships they endured, or the services they rendered by taking care of those soldiers and their families, while their own time was taken up in the service of the country.

The pension law of 1838 was intended to extend the benefits of the pension list to widows married to revolutionary soldiers after the revolutionary war, but prior to 1794; on the ground that those who married those veterans at an advanced age were entitled to their pensions, in consideration of the care and attention necessarily bestowed upon their declining years.

The recent practice of Congress had been to extend the benefits of this law to widows of those revolutionary soldiers claiming under the law of 1838, to cases in which those widows married again.

Mrs. Bealy's was one of the latter class, and it was urged upon the two grounds—first, her case being originally one coming strictly within the provisions of the law of 1838; and, next, as being grounded on a principle, with regard to subsequent marriage, fully sanctioned by precedent in the action of Congress heretofore.

Mr. CALHOUN showed that enormous evils had grown up out of small beginnings. When he was at the head of the War Department, the pension system was urged with assurances that the ultimate cost would not exceed \$100,000. The very largest conjecture was \$300,000. Yet, in the first year that it went into operation, the demands upon that fund exceeded two millions of dollars. So it was with the law of 1838. It was said there were but few cases, and, in all, they would not exceed a few thousand. Yet, now, they were running up to hundreds of thousands of dollars; and if this new class of cases were added, there would be no knowing where the system would end.

The bill was reported to the Senate, and read a third time; and, the yeas and nays being

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Bankrupt Law.

[JULY, 1842]

called on its passage, it was passed, by a vote of yeas 21, nays 14.

THURSDAY, July 21.

*Letter of General Harrison.*

Mr. CALHOUN presented a petition from Middlesex county, Virginia, in favor of free trade, and against a tariff. Mr. C. said the petition was received here during his absence from the city, and was forwarded to him at his residence, and was only returned yesterday evening.

Mr. C called the attention of the Senate for a few moments to the letter of General Harrison, at Zanesville, appended to one of the resolutions referred to in the petition. He wished the Secretary to read the letter, and for Senators to give it an attentive hearing. The letter was in support of the compromise act.

The Secretary then read the resolution and letter as follows:

*Resolved*, That when the late Wm. H. Harrison was elected to the Presidency, under the solemn pledge "that he would never revive the tariff, but, on the contrary, would support the compromise act, and would never consent to its being altered or repealed," we had the strongest assurance that the promise of man could afford, that our country would be freed from that onerous system—at least during the four years of his Presidency; and those of us who sustained his election upon the faith of those pledges, and co-operated with his party under the confident expectation that they would be fully redeemed, cannot but regard with feelings of profound astonishment and regret the utter repudiation of those pledges, by the majority of the party since his death.

"ZANESVILLE, Nov. 2, 1836.

"GENTLEMEN: I had the honor, this moment, to receive your communication of yesterday. I regret that my remarks of yesterday were misunderstood in relation to the tariff system. What I meant to convey was, that I had been a warm advocate of that system upon its first adoption; that I still believed in the benefits it had conferred upon the country; but I certainly never had, nor ever would have, any idea of reviving it. What I said was, that I would not agree to the repeal as it now stands. In other words, I am for supporting the compromise act, and never will agree to its being altered or repealed.

"In relation to the internal improvement system, I refer you for my sentiments to my letter to the Hon. Sherrod Williams.

"WILLIAM H. HARRISON.

"Messrs. DOSTLER, TAYLOR, and others."

Mr. CALHOUN observed that the Senate had now, in that letter, in the most express and solemn form, the declaration of General Harrison that he never would agree to change or repeal the compromise act. Whatever doubt there may be as to the course he would have pursued in reference to a National Bank, there can be none now as to his course in reference to the compromise act. As far, at least, as the question of tariff and adherence to the compro-

mise act is concerned, the death of General Harrison has presented to his supporters no impediment that would not exist were he living. Were he now alive, he would have acted as Mr. Tyler has acted; and, in consistency with his own declared principles, he would be bound to act as Mr. Tyler is bound to act. The party now in power supported General Harrison throughout the Presidential canvass, on the grounds of his acknowledged principles. Here he has placed them beyond doubt on the vital question of tariff and the compromise act; and he (Mr. CALHOUN) would submit it to the gentlemen on the other side, whether they do not stand pledged, by the terms of this letter, to the support of the compromise act; and whether that pledge would not be grossly and palpably violated by the House bill now before the Committee on Finance. There is in that bill a provision which is virtually a repeal of the compromise act. With what consistency can that provision be supported by those who stand pledged to General Harrison's principles upon the subject, so unequivocally expressed in the letter just read?

He moved to lay the petitions and accompanying documents on the table, and that they be printed.

Mr. CRITTENDEN denied that there was any thing in General Harrison's letter inconsistent with the course which Mr. OLAY and his friends had always pursued with respect to the compromise act. He went at much length into the subject.

Mr. CALHOUN replied with great animation.

An exciting debate arose, which occupied the attention of the Senate for upwards of two hours.

The petitions and papers were laid on the table, and the question of printing was referred to the Committee on Printing.

*The Tariff.*

Mr. EVANS, from the Committee on Finance, reported back to the Senate with numerous amendments, the tariff bill from the House; which was ordered to be printed.

HOUSE OF REPRESENTATIVES.

THURSDAY, July 21.

*Bankrupt Law.*

Mr. ROOSEVELT resumed his speech on the extension of the bankrupt law to banking incorporations. His object, he said, was to procure an expression of opinion from all sides of the House on this very important question—very important as to a leading interest of the country; and he proceeded to show why the extension of the bankrupt law was just and constitutional.

What, he asked, was the true character of the debtor corporation, under our institutions? As the stockholder was not made liable, what was the real liability? Why, if the bankrupt

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law were extended to these associations, in the exigency of its application, it would consist, in nine cases out of ten, of a body of promissory notes held by the corporation, against a number of individuals, consisting mainly of the officers and friends of the institution, or of the friends of its officers. And was there any thing in the constitution to exempt that class from liability? Why should the debtors to these institutions be permitted to roam at large, and defy any interference, while the debtors of individuals were to be held liable? He should think this consideration would satisfy the House that the law should be extended to these incorporations. But they had a duty to discharge, besides passing a bankrupt law. The constitution declared that Congress, and Congress only, should have the power—and the object could only be accomplished by the exercise of that power—to regulate the value of the money of the United States. How were they to do this? Were they to say that they could do it by affixing a uniform stamp on their issues? That doctrine might have done in the dark or middle ages, but it would not do now. Money meant every species of money—not merely gold, silver, and copper, but paper also. If, then, it was the duty of Congress to regulate money; was it not its duty to prevent the exercise of a power elsewhere, which, in effect, destroys the regulation of the standard of value, so far as its pecuniary value was concerned? Could it be supposed that the framers of the constitution, every line of which was pregnant with foresight, intended that they should be contented with a mere form of words? Could it be imagined that those wise men intended that there should be such a state of things as was now found to exist—one standard in one State, and a widely different one in another? and even a variation on the opposite sides of a river of from 1 to 50 per cent. in the value of the dollar, so called? No; they intended the power given to Congress to be carried out in some way or other.

He then proceeded to point out exercises of power under the constitution, which would justify the enactment which he advocated.

Mr. R. referred to another provision in the constitution which was violated by the irregularities of the banking system, and that was, that no State shall pass any law impairing the obligation of contracts. The expansions and contractions of the circulating medium—contracts being made when the circulation was high, and enforced when it was low—operated as a perfect violation of that provision in the constitution. Mr. R. went on to show that Congress was not performing its duty when it neglected to provide against such a state of things; and that it was not (as bound to do by the constitution) regulating the value of the money of the United States, nor the commerce of the United States, while it suffered such disorders in the currency to prevail throughout the land. Mr. R. next went on to show the

injurious effects that the expansions and contractions of the banks had on the manufacturing interests of the country, and that while the manufacturers were vainly seeking a remedy through a high tariff, the only way to cure the evil was to apply the bankrupt system to the banks, and thus put it out of their power to cause those fluctuations which have proved so injurious to the manufacturing interest.

Anxious to take the sense of the House on this question, he had prepared a resolution as a substitute for that of the Judiciary Committee, and he would now submit it to the House. He had submitted it to several members of both political parties, who now agreed with him in the propriety of subjecting moneyed corporations to the provisions of the bankrupt system; and he hoped that the question would be taken on it at once. Mr. R. then read the following resolution as a substitute, by way of amendment, to the resolution of the Judiciary Committee:

*Resolved*, That the report be recommitted, with instructions to the Committee on the Judiciary to prepare a bill, to take effect within a reasonable time from the passage of it into a law, containing a uniform system of bankruptcy, applicable to moneyed corporations, to be reported to Congress at its next session.

Mr. R., after a few more remarks, concluded by moving the previous question.

Mr. BARNARD moved to lay the whole subject on the table.

Mr. ROOSEVELT said that, as this would be a test question, he would call for the yeas and nays.

The yeas and nays were accordingly ordered; and, on taking the question, it resulted as follows:

YEAS.—Messrs. Arnold, Babcock, Barnard, Barton, Black, Blair, Boardman, Botts, Briggs, Brockway, Milton Brown, Jeremiah Brown, Burnell, Sampson H. Butler, William Butler, Calhoun, John Campbell, Thomas J. Campbell, Caruthers, Childs, Chittenden, John C. Clark, Staley N. Clarke, James Cooper, Cross, Deberry, Fillmore, Gamble, Gentry, Giddings, Gilmer, Granger, Houston, Howard, Joseph R. Ingersoll, James, Isaac D. Jones, John P. Kennedy, King, Lewis, Linn, Mathiot, Mattocks, Maxwell, Maynard, Moore, Morgan, Morrow, Osborne, Owsley, Pope, Powell, Ramsay, Randall, Ridgway, Rodney, W. Russell, J. M. Russell, Truman Smith, Alexander H. H. Stuart, Summers, Talliaferro, John B. Thompson, Richard W. Thompson, Toland, Tomlinson, Triplett, Trumbull, Warren, Washington, Edward D. White, Joseph L. White, Christopher H. Williams, Yorke, Augustus Young, and John Young—76.

NAYS.—Messrs. Adams, Allen, Landaff W. Andrews, Sherlock J. Andrews, Arrington, Atherton, Bidlack, Birdseye, Borden, Boyd, Brewster, Bronson, Aaron V. Brown, Charles Brown, Burke, William O. Butler, Green W. Caldwell, Patrick C. Caldwell, William B. Campbell, Carey, Casey, Clifford, Mark A. Cooper, Cowen, Cranston, Cravens, Cushing, Garrett Davis, Richard D. Davis, Dean, Doan, Doig, Eastman, John C. Edwards, Egbert, Fessenden, John G. Floyd, Charles A. Floyd, Fornance, A. L. Foster, Gerry, Goggin, Patrick G. Goode, William O. Goode, Gordan, Graham, Gustine, Harris, Hays, Hopkins, Houck, Hudson, Charles J. Ingersoll, William W.

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Irwin, Wm. Cost Johnson, Cave Johnson, Keim, Littlefield, Abraham McClellan, Robert McClellan, McKay, McKeon, Marchand, Alfred Marshall, Samson Mason, Mathews, Medill, Miller, Mitchell, Morris, Newhard, Parmenter, Patridge, Pendleton, Plumer, Read, Reding, Rencher, Reynolds, Riggs, Rogers, Roosevelt, Sanford, Saunders, Shaw, Shepperd, Shields, Snyder, Sprigg, Stanly, Steenrod, Stokeley, Sweney, Jacob Thompson, Tillinghast, Turney, Van Buren, Wallace, Ward, Weller, James W. Williams, Joseph L. Williams, and Wise—108.

So the House refused to lay the resolution on the table.

The previous question on Mr. ROOSEVELT's motion having been seconded by the House, and the main question ordered—

The yeas and nays on the main question were called for by several, and ordered.

The SPEAKER said the main question would be on the adoption of the report and resolution of the Committee on the Judiciary, the previous question cutting off the instructions.

Mr. ARNOLD moved to lay the report and resolution on the table; which question was decided in the negative—yeas 77, nays 108.

Mr. FILLMORE hoped that one hour would be appropriated to the reception of reports from committees which would not cause debate.

After some opposition and debate, in which Messrs. W. O. JOHNSON, ARNOLD, and POPE took part, the suggestion was assented to, and committees were called on for reports.

#### *Sugar Duty.*

On motion of Mr. FILLMORE, a resolution reported by him from the Committee of Ways and Means was adopted, calling on the Secretary of the Treasury to ascertain the quantity of saccharine matter in different kinds of sugar, with a view to the more proper adjustment of the duty thereon.

#### *Cumberland Railroad.*

Mr. F. also reported, from the Committee of Ways and Means, a bill "making an appropriation for the Cumberland road in the States of Ohio, Indiana, and Illinois, and for certain harbors:" referred to the Committee of the Whole on the state of the Union.

#### *General Appropriation Bill.*

Mr. J. R. INGERSOLL, from the Committee of Ways and Means, reported a bill making appropriations for such officers as were not provided for in the general appropriation bill; and also for certain incidental expenses of the departments: referred to the Committee of the Whole on the state of the Union.

#### *Foreign Exchange.*

Mr. S. MASON, from the same committee, reported a bill, which had been passed by the Senate, fixing the value of the pound sterling.

At his suggestion, the bill was now considered, and passed.

[It fixes the value of a pound at \$4 84.]

#### HOUSE OF REPRESENTATIVES.

SATURDAY, July 28.

#### *The Bankrupt Law.*

The House resumed the consideration of the report of the Committee on the Judiciary, declaring that it was inexpedient to include banks and other corporations within the operation of the general bankrupt law. The several motions to lay on the table, recommit, &c., having hitherto failed, the question now recurred upon the adoption of the resolution of the committee, declaring that it was inexpedient to include corporations within the operation of such a law. The House refused to adopt the resolution, by a vote of 53 to 113, as follows:

YEAS.—Messrs. Babcock, Barnard, Barton, Botts, Sampson H. Butler, William Butler, Caruthers, Childs, Chittenden, Cross, Deberry, Everett, Thomas F. Foster, Gamble, Giddings, Goggin, Graham, Gustine, Houston, Hunter, James, King, Linn, Mattocks, Maxwell, Maynard, Meriwether, Morgan, Morrow, Osborne, Owsley, Payne, Pickens, Pope, Powell, Alexander Randall, Rhett, Ridgway, Rodney, Saltonstall, Truman Smith, John T. Stuart, Summers, Sumter, Taliaferro, Richard W. Thompson, Toland, Tomlinson, Trumbull, Warren, Joseph L. White, Christopher H. Williams, and Yorke—53.

NAYS.—Messrs. Adams, Allen, Landaff W. Andrews, Sherlock J. Andrews, Appleton, Arnold, Arrington, Atherton, Baker, Bidlack, Birdseye, Black, Boardman, Borden, Bowne, Boyd, Brewster, Briggs, Bronson, Aaron V. Brown, Charles Brown, Burke, Green W. Caldwell, Patrick O. Caldwell, Calhoun, William B. Campbell, Thomas J. Campbell, Casey, John C. Clark, Staley N. Clarke, Clifford, Clinton, James Cooper, Cowen, Cranston, Cravens, Cushing, Daniel, Garrett Davis, Richard D. Davis, Dean, Doig, Eastman, John C. Edwards, Egbert, Fessenden, Fillmore, John G. Floyd, Charles A. Floyd, Gentry, Gerry, Patrick G. Goode, Granger, Gwin, Hall, Halsted, Harris, Hastings, Hays, Hopkins, Houck, Charles J. Ingersoll, J. R. Ingersoll, W. W. Irwin, Cave Johnson, Keim, John P. Kennedy, Lane, Littlefield, Abraham McClellan, Robert McClellan, McKay, McKeon, Marchand, Alfred Marshall, Samson Mason, John T. Mason, Mathiot, Mathews, Miller, Mitchell, Morris, Newhard, Parmenter, Patridge, Pendleton, Plumer, Ramsay, Benjamin Randall, Read, Reding, Reynolds, Riggs, Roosevelt, James M. Russell, Sanford, Saunders, Shepperd, Snyder, Stanly, Steenrod, Stokeley, Sweney, Jacob Thompson, Tillinghast, Turney, Underwood, Van Buren, Ward, Waterson, James W. Williams, and Joseph L. Williams—113.

Mr. ROOSEVELT said that the House having, in effect, decided that it was inexpedient to include corporations, he would move to recommit the report, with instructions to report a bill.

The SPEAKER decided the motion to be out of order.

After some conversation between Messrs. ARNOLD, BARNARD, ROOSEVELT, and the SPEAKER, on a question of order—

Mr. ROOSEVELT said he would move a reconsideration of the vote just taken, and explain the object he wished to attain. Some months since, the House passed a resolution, instruct-

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ing the Committee on the Judiciary to inquire into the expediency of including corporations in the operations of the bankrupt law. The committee reported it to be inexpedient. The House now decided to reject the report of the Judiciary Committee; and, in doing so, virtually declared that a bill should be brought in. He moved to reconsider the vote, in order that the committee might be instructed to bring in a bill; and called the previous question on the motion.

Mr. CAVE JOHNSON suggested to his friend from New York (Mr. ROOSEVELT) to withdraw his motion to reconsider, and bring the question before the House on an appeal from the decision of the Chair, declaring it out of order to move a recommitment of the report, with instructions to bring in a bill.

Mr. ROOSEVELT having complied with this request, and appealed from the Speaker's decision—

Mr. STANLY, observing that he considered the whole effort but an electioneering movement, made a motion that the appeal be laid on the table.

This motion was carried—ayes 91, noes 52.

#### *The Present Tariff Laws.*

Mr. BARNARD, from the Committee on the Judiciary, asked leave to make a report in answer to the resolution of the House, referring to that committee the circulars issued from the Treasury Department to collectors of the customs, in relation to the manner of collecting duties on imports. He desired that the report be laid on the table and printed, and moved the previous question on the motion.

He asked the House to receive the bill which he had been instructed to report from the Judiciary Committee, so that it could be printed. He sent the bill to the table, and it was read by the Clerk. It was entitled "A bill to supply a temporary defect or failure in the laws relating to the collection of duties on imports." The Clerk read the bill through, as follows:

1. That upon all goods and merchandise which have been imported into the United States since the 30th day of June last, or shall be imported between that day and the day when any act which may be passed at the present session of Congress, imposing duties on imports shall become a law, and go into operation, and which goods, wares, and merchandise, would have been subject to any duty upon their importation, by laws then existing, if they had been imported at any time between the 1st and 30th day of June last, there shall be levied, collected, and paid on such as would have been subject by such laws, to a duty of 20 per cent. ad valorem, or more, a duty or tax of 20 per cent. ad valorem; and on such as would have been subject, by such laws, to a duty of less than 20 per cent. ad valorem, a duty or tax in every case equal to the duty to which they would have been subject by such laws.

2. That all laws existing and in force on the 1st day of June, imposing duties on imports, and providing for the collection of such duties, and all provisions in such laws, or any of them, in regard to the

payment of duties in cash, or the allowance of credits in regard to the keeping of goods in public stores, in regard to appraisements, and the duty of appraisers, collectors, and other officers, in regard to discriminations, in regard to drawbacks, in regard to pains, penalties, and forfeitures, and in regard to all other matters and things embraced in such laws and provisions, shall, so far as the same are or may be applicable, and can be applied to this act, as an act for imposing and collecting a duty, or tax, on imported goods, wares, and merchandise, be deemed, and taken to be, and shall be in force for the collection of the duty or tax imposed by this act, as fully and effectually as if every regulation, restriction, penalty, forfeiture, provision, clause, matter, and thing in the laws aforesaid, were inserted in, and re-enacted by, this act; but the same shall not be deemed to be revived and in force, by any thing in this act contained, for any other purpose, and to any other effect whatever.

3. That in all cases of goods, wares, and merchandise, on which a duty or tax is imposed by this act, and upon which, on their importation, duties have been or shall be paid, under laws supposed to be in force for the imposition and collection of duties on imports, since the 30th of June last, and which payments of duties have been or shall be made under protest, it shall be lawful for the respective collectors, or other officers of the customs having the matter in charge, (retaining so much of such duties paid as aforesaid under protest, as will satisfy the duty or tax imposed by this act,) to remit and pay over the excess, if any, to the person or persons claiming and entitled thereto.

Mr. BARNARD moved the reference of the bill to the Committee of the Whole on the state of the Union, and that it be printed.

Mr. CAVE JOHNSON thought it would be better to pass the bill immediately, unless some gentleman desired to debate it. He, therefore, moved the engrossment of the bill.

The SPEAKER informed the gentleman from Tennessee that, being an appropriation bill, or a bill levying taxes, it must necessarily go to a Committee of the Whole.

Mr. CAVE JOHNSON suggested that it was a bill to legalize duties already levied.

The House then referred the bill to the Committee of the Whole on the state of the Union.

Mr. ADAMS asked if the report would be printed with the bill.

Mr. CAVE JOHNSON said, if it was but the report of a minority of the committee, he should object.

Mr. SAUNDERS begged to make an explanatory statement; and, having done so, he was followed by Messrs. ROOSEVELT, BARNARD, and MAXWELL, who stated the position in which the matter stood in the standing committee, which appeared to be this: The committee consists of nine members, a majority of whom Mr. SAUNDERS understood to be opposed to the conclusions, at least, of the report; but the meeting which adopted the report consisted of six members only, a majority of whom (though a minority of the committee) gave it their sanction; and thus the chairman was justified in making the report.

2d Sess.]

*Enlistments (Black and White) and the Hooe Case.*

[JULY, 1842.]

The previous question, which Mr. BARNARD had moved, was then sustained by the House; and the printing was ordered by yeas and nays, by a majority of 98 to 64.

IN SENATE.

MONDAY, July 25.

*The Tariff Bill.*

On motion of Mr. EVANS, the special order was taken up, which was the consideration, as in Committee of the Whole, of the House bill No. 472, "to provide revenue from imports, and to change and modify existing laws imposing duties on imports, and for other purposes."

Mr. E., leaving the details of the bill and the amendments for discussion as they should come up in their order, proceeded with an exposition of the general principles and necessity for the measure.

Mr. E. spoke for more than two hours; and, in the course of his remarks, dwelt particularly on the exigencies of the Government, the exhausted state of the treasury, the requirement of from twenty-six to twenty-seven millions of dollars to meet the ordinary and extraordinary expenditures, and the impracticability of meeting the demand in any other way but by a revenue from customs. He insisted that, from the beginning of this Government under the present constitution, commerce has uniformly met those demands, and was now as well able to meet them as at any former period. The customs, he maintained, had for the last half century done more than this. That branch of revenue had met the expenditures, and redeemed the country from debt. He went into details in proof of this; and, estimating the increased consumption of increased population, he treated as unfounded all apprehensions that the dutiable imports were not perfectly competent to bear a revenue of twenty-six or twenty-seven millions of dollars. He contrasted the plans proposed by the Secretary of the Treasury, the Committee of Ways and Means in the House of Representatives, and the Finance Committee of the Senate; and showed that, although they differed in many respects as to details, they all came nearly to the same conclusion, that it was practicable to raise between twenty-six and twenty-seven millions, without trenching on the disputed ground of protection, for the sake of protection. He admitted there was a great difficulty, in making discrimination, in ascertaining the precise point where incidental protection changes into direct protection; but he believed the present bill, as proposed to be amended by the Finance Committee, would keep that point more steadily in view than any other plan which could be matured at this late period of the session; and would, in no material instance, depart from the general principle of revenue for the sake of revenue, with such protection only as that object would sanction in a wise discrimination.

The demands of the year will be from twenty-six to twenty-seven millions of dollars. The receipts it was impossible to estimate, with any degree of precision. The customs, during the first half of the year, were scarcely eight millions; and, for various reasons, it might be doubted if they would be more for the second half, unless this bill was speedily passed. The passage of this bill would, however, remove all doubts of the Government being sustained, and the public credit maintained. The reliance on its adoption had already restored confidence, as evinced in the improved rates of treasury notes and Government stock. Once the bill became a law, there would be no difficulty in obtaining whatever loan the present demands on the treasury might require, or the growing exigencies (till the revenue came in) might call for.

He defended the clause repealing the proviso of the distribution act, which restores to the treasury the land fund in the event of duties exceeding 20 per cent.; and contended that the shock which the withholding of that fund from the States would give to the State credits directly, would be felt indirectly by the General Government with equal severity. The increased embarrassments of the States would be reflected on the General Government, which could much better spare that fund than the States could do without it. It was not, however, a subject, the discussion of which he wished to anticipate, or which he felt any disposition to enter upon at all; believing that it was so fully understood by the whole country, that to argue further upon it was a mere waste of time.

Mr. ARCHER suggested that, as the first amendment which proposed a reduction of from *six* cents to three and a half cents on bagging, was one in which the Senators from Kentucky, not now in their places, felt some interest; and as the hour was too late to proceed with any general discussion, it would be best to postpone the further consideration of the bill till to-morrow, and take up the navy appropriation bill with the House amendments, awaiting the decision of the Senate.

It was then agreed to postpone the further consideration of the bill till to-morrow.

FRIDAY, July 29.

*Enlistments (Black and White) and the Hooe Case.*

The bill to regulate enlistments in the naval service of the United States came up in its order, as in Committee of the Whole, on amendments from the Committee on Naval Affairs, including enlistments in the marine corps. The amendments were agreed to.

Mr. CALHOUN said, if he heard the bill correctly read, it allowed of the enlistment of all free persons, without distinction of color. He asked the Senator from Delaware (Mr. BAYARD) whether it was intended to allow of the enlistment of free negroes and mulattoes?



Mr. BAYARD replied, that the bill was not intended to encourage the enlistment of such as the Senator from South Carolina alluded to. It left the laws in that respect as they now stood—that is, left the discretion to the proper department. He presumed that the Government were not going to order the enlistment of negroes.

Mr. CALHOUN remarked, that the Senators would all remember the celebrated case of Hooe, about which so much noise was made in the midst of the last Presidential campaign. A favorable opportunity was now offered to correct the evil of enlisting negroes and mulattoes in the service of the United States. He asked the chairman on Naval Affairs to amend the bill, so as to except negroes and mulattoes from enlistment, save for the purposes of cooks, servants, and stewards. He hoped the bill would be so altered as to read "free white men," except for the objects indicated.

Mr. BAYARD suggested that the Senator from South Carolina would accomplish the purpose he desired, by moving his amendment in the form indicated by him. He (Mr. B.) did not wish to be understood as accepting the amendment. He, however, desired that a vote of the Senate be taken upon it.

Mr. CALHOUN moved an amendment to the effect that white men only should be enlisted, except for cooks, servants, and stewards, for which offices negroes or mulattoes might be employed. He demanded the yeas and nays on the amendment, which were ordered.

Mr. C. said they would all remember the Hooe case. From what transpired with reference to that case, the fact was obvious that it was wrong to bring negroes into the service of the United States, and place them in contact with the white man. It was wrong to bring those who had to sustain the honor and glory of the country down to the footing of the negro race—to be degraded by being mingled and mixed up with that inferior race.

Mr. BAYARD said the case of Hooe, which the Senator alluded to, was a case of testimony altogether, which the department had full power to regulate; or it might be regulated by statute, if necessary. He would only say that, during the Revolutionary war, there were several in the service of the country, who served with great advantage to it, and proved themselves to be excellent seamen, and brave and gallant men.

He was not, therefore, disposed to introduce an exception, which would deprive the Government of the service of these men, if it should be deemed hereafter necessary. So far as the Hooe case was concerned, he would repeat, that it was simply a case of admissibility of testimony, which the regulations of the department could reach, or which might be regulated by statute.

Mr. CALHOUN said there was a deep prejudice in every part of the Union, and in the South particularly, which makes a discrimina-

tion and distinction between the two races, and which ought to be respected. He was understood to say that the Southern States had long since taken measures to prevent the introduction of negroes into the sea service. He spoke of the delicate interests of the South with reference to this question, and of the circumstances which had transpired growing out of the policy of Great Britain, which rendered the exclusion of negroes from the service as one of the utmost importance. And, although he was willing to admit that we have had in the service good black sailors, yet it was of more importance to respect the feelings of the white sailors, and to prevent their degradation, than to retain those negroes, however well qualified to perform marine service. At all events, some respect ought to be had to a great portion of the Union, which was extremely sensitive upon the subject.

Mr. TAPPAN could see no reason for adopting the amendment. He was not aware that the employment of negroes in the public service had ever proved injurious to it. Then, why not leave the matter as it had stood heretofore? He saw no necessity for a change of the laws in this respect. But, on the other hand, much injury might result to the service. It might be impossible to man our vessels of war in sudden emergencies, or in some peculiar cases, unless officers were allowed the discretion to employ negroes or mulattoes. Our national vessels might be in a portion of the country where white seamen could not be procured, and necessity might require the employment of blacks. But he conceived, if the law was left as it now stood, that negroes and mulattoes would not be engaged if it could be avoided. No evil had resulted so far, and no evil was likely to result.

Mr. PHELPS had his fears that the incorporation of the amendment in the bill might prove detrimental to the public service. During the late war, the class now proposed to be excluded from the navy had proved to be of great service. He would mention one instance. In 1814, when McDonough fitted out the fleet on Lake Champlain, he found it extremely difficult to procure white seamen; and, on the occasion of his splendid victory, the greater portion of the sailors under his command were black. If a war should again occur, it would be doubtless necessary, in fitting out our fleets, to resort to the course pursued at that time, in this particular; and he had no sort of doubt that the result of the action on the lakes would have been entirely different from what it was, if the employment of a motley and speckled crew had been prohibited. We were indebted for this victory to the practice of introducing negroes on board of our armed ships. He thought that, if the amendment should prevail, it would injure the service, without inducing a corresponding benefit. It was doubtless true that the department would prefer white men; but, if they could not be procured, he could see no reason why the practice of the Government,

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as it had been from the beginning, should not be continued; and he saw no reason why the service should suffer from the prejudices of a portion of the people of our country. If there should be any difficulty as to the competency of the colored sailors for witnesses, it would be a subject to be settled by the department, or by Congress; and it had no connection whatever with the amendment now before the Senate.

Mr. CALHOUN was understood to say that the introduction of blacks into the service might have occasioned an indisposition on the part of white sailors (who felt themselves degraded by an association with negroes) to enter the service, both during the war and at the present time. The very reason given, then, for their employment—the scarcity of white sailors—might have occasioned the necessity for it. It was the natural consequence. He said that, in some portions of the country, negroes were excluded from employment,—white labor being preferred; and, should nothing be done to prevent the blacks from entering the navy, they would seek that kind of employment: and thus would you throw upon the negro race the protection of the national rights and the defence of the national honor. He did hope that so important an arm of the national service would not only be placed in the keeping of freemen, but those bearing our own complexion—having the glory, and honor, and interests of the country at heart.

Mr. ARCHER remarked that it appeared to him that this was a small matter; and he trusted that it would not be magnified into a great one. A small number of blacks only would be excluded by the amendment; and, for that reason, as well as with a view to indulge the Senator from South Carolina, he would give to it his support.

Mr. BENTON would only say that arms, whether on land or water, ought to be borne by the white race only. This was the first time he ever heard that the black race carried arms. He was opposed to it, and was decidedly in favor of the amendment proposed by the Senator from South Carolina, (Mr. CALHOUN.)

Mr. YOUNG said this was a question whether or not they would introduce into the navy, as a part of the material of the navy, negroes and colored persons.

The amendment of Mr. CALHOUN prohibiting the enlistment of negroes in the naval and marine service, except as servants, stewards, and cooks, was adopted on yeas and nays, by the following vote, viz:

YEAS.—Messrs. Allen, Archer, Bagby, Barrow, Bayard, Benton, Berrien, Calhoun, Conrad, Cuthbert, Fulton, Graham, King, Linn, Mangum, Preston, Rives, Sevier, Smith of Connecticut, Sturgeon, Walker, Wilcox, Woodbury, and Young—24.

NAYS.—Messrs. Bates, Choate, Clayton, Crafts, Dayton, Evans, Miller, Phelps, Porter, Simmons, Smith of Indiana, Sprague, Tappan, White, Williams, and Woodbridge—18.

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The bill was then reported to the Senate, and the amendments of the Committee of the Whole were concurred in.

Mr. PRESTON moved an amendment prohibiting the enlistment of negroes in the army; which was agreed to.

SATURDAY, July 30.

*The Tariff Bill.*

Mr. EVANS having called for the resumption of the unfinished business of yesterday—

The bill "to provide revenue from imports, and to change and modify existing laws imposing duties on imports, and for other purposes," was taken up, as in Committee of the Whole; the question pending being on Mr. CALHOUN's modified amendment to the Finance Committee's amendment, which was to change the duty on cotton-bagging from 5 cents to 8½ cents per square yard; Mr. CALHOUN's first proposition being to substitute 2 cents for 8½, but modified subsequently to a proposition to make the duty on cotton-bagging, or other imported substitute, 20 per cent. ad valorem.

Mr. SEVIER said much had been said about protection. The whole of this bill, from beginning to end, was a bill for protection; and revenue was but a secondary object. A great number of articles included in the bill were taxed to prohibition; and this bagging was one of them. In regard to protection, he (Mr. S.) had but one word to say. He abominated the principle in any shape—he cared not whether it were called direct or incidental. What did they mean by incidental protection? If it were that protection which was derived from taxes laid for revenue, be it so; but he was averse to it, even in this shape. He was opposed to protection, either direct or indirect, considered as protection *per se*. He was averse to being taxed for the benefit of his neighbors. It was not right. It was not according to the command which says, "Thou shalt not covet thy neighbor's goods." There was no honesty in it. It was taking from the pockets of one, to put into the pockets of another. They might just as well take what he had by force, as by this particular legislation.

This being a bill, then, for protection as he conceived, and not for revenue, he could not give it his support.

Mr. BENTON would avail himself of the present motion, to state the principles on which he should give his vote on the different items in the bill. He was for a revenue tariff; for the Government needed revenue, and must have it. But in raising the revenue which the Government needed, he would discriminate between luxuries and necessities—between articles made, or not made, at home; and would so distribute the imposition of duties, as to afford incidental protection to home industry. This industry divides itself into three great branches: agriculture, manufactures, and commerce.

These branches of industry rank in relative importance, in the order named. Agriculture, which furnishes the means of subsistence to man and to beast, ranks first. Manufactures, which fashion and prepare the products of agriculture and crude materials for the use of man, stands second. And commerce, which exchanges the superfluities of nations, and promotes civilization, stands third. They are all three great interests; but they have their relative and their degrees of importance; and, in extending the incidental protection which the levy of needful revenue would confer, he would be governed by their relative importance, and would go highest for that which was most important. He would go highest for the agricultural interest; that is to say, would lay the highest revenue duty on the foreign imports which came into competition with the products of our own agriculture. Now, what was a revenue duty? This was a question of some latitude, and susceptible of various answers, if answered in the abstract;—but very simple, if confined to facts. The answer to the question only requires two points to be established, namely: the amount of revenue required, and the amount of the dutiable articles which are to raise it. These points established, and the rate of duty results of itself; and, in the present case, would give us an average duty of about 80 per cent. on the value. The amount of revenue needed for the Government is stated by the committees at about twenty-seven millions—not the thirteen millions mentioned before the election. The amount of dutiable articles, after deducting re-exportations and free articles, is estimated at about ninety millions. Thirty per cent. on this amount would give twenty-seven millions—the amount required; and the whole to be taken from the customs, if the lands are not restored to their destination. If the lands are restored, the rate of the duty will be less. Mr. B. would still hope to see the land revenue restored, and the rate of duty proportionably reduced; but, for the present, he would follow the committees, and assume about 80 per centum to be the rate of duty which the wants of the treasury required. This was the average: the actual duty would be above that rate in some instances—below it in others. The bill before the Senate rose as high as 100 or 200 per centum on some articles. He (Mr. B.) could not admit such duties to be revenue duties. He could not conceive of a revenue duty, the maximum of which should exceed, or materially exceed, 80 per centum. Thirty-three and a third was the one-third part of the cost of the article; and a tax of one-third must be admitted to be a high tax. Above that, the duty might defeat its own object, by diminishing consumption, or inducing smuggling. Thirty-three and a third per centum, he would then assume as a maximum revenue duty, and as high as he could go in any case. These were his principles; and now for the application. The article in question is an

agricultural article; it classes with agricultural articles, and belongs to the agricultural interest; for though the bagging and the rope pass through a factory, yet the factory and the hemp-field are side by side; and the factory works exclusively in the domestic hemp. It is not a case of some of those manufactures which are called domestic, while they work up a foreign material—foreign wool, or hides for example, washed with foreign soap, greased with foreign oil, dyed with foreign ingredients, and worked by foreign hands, (in some instances,) and yet called domestic. The cotton-bag and rope-factory is not of that kind. It is all American; and though the factories may be few, yet the farmers who supply them with hemp are numerous; it is therefore an agricultural interest: and in his view entitled to the highest incidental protection which is consistent with a revenue duty. Scotch bagging is its foreign rival; and if this duty was upon the value, he would say at once, let it be 83½ per cent. But it is not on the value, but on the yard; and here some difficulty arises. How many cents per yard will be the equivalent of 83½? and the answer to this question requires us to know the cost of the foreign article. Here, as a matter of course, we have different prices quoted, and truly; for the same article must have different prices in different years, and even in the same year, under different circumstances. The Senator from South Carolina (Mr. CALHOUN) quotes a purchase made by an importing merchant of the South in 1841, at 4 and 5 pence sterling. This is equivalent to 8 and 10 cents. On the other hand, the Senator from Kentucky (Mr. CURTENDEN) gives us quotations for ten years; and they are from 6½ pence to 7½ pence; that is to say, from 12½ to 15 cents. Both quotations are authentic; but that of the Senator from Kentucky must predominate; for he gives the prices for a series of years, while the Senator from South Carolina only gives the price in the case of a single purchase. About 18 or 14 cents may then be assumed as the average, or usual cost of the article in Dundee and Inverness, whence it comes. Thirty-three and a third per centum would be very near 5 cents on the yard, if the running and dutied yard were the same. But the yard for duty is the square yard; and this is 4, or 6, or 8 inches narrower than the other. Then a duty of 5 cents gives more than 83½ per centum on the value; and, without pretending to precise accuracy, it is clear that 8½ cents—the duty proposed in the amendment—comes nearest to the duty desired. It is a case in which precision is unattainable—in which, in fact, what was the precise equivalent at one time would not be so at another; and believing 8½ cents on the square yard to be near about—to be as near as well could be attained—to the 83½ per centum on the value, he should vote for it. Mr. B. said that revenue was his object, and protection the incident. He had shown the principle on which he arrived at an average of 80 per

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centum as necessary for revenue, and shown that there were cases in which he would go a little above it. He had now to take another view of it, and to show the amount of the incidental protection which it would afford. And here he had to appear paradoxical! for he would say that a revenue duty of 80 per cent. on the value of the imported article, was a protection of 60 per cent. on the home-made article! He supported this proposition by showing that, without any duty upon it, there was a charge of 80 per cent upon the foreign cost, before it could leave the importer's hands. This amount was thus made up: costs and expenses of importation  $7\frac{1}{2}$  per cent.; importer's profit,  $12\frac{1}{2}$  per cent.; cash payments and home valuations, 10 per cent. This was 80 per cent. added to the foreign cost, without duty, and before it leaves the importer's hands. It was, therefore, an addition of that amount to the cost of the article, and, consequently, a protection to that amount to the home-made article. Add the duty to this, and it is 60 per cent. protection. It was a great protection—enough for any interest—as much as the community should bear—as much as a wise policy should demand. Make it higher, and the duty will be a bone of contention, and the sport of political conflicts, until it is reduced, or broken down. Get a prohibitory duty, or a high direct protective duty, and you only bring on a contest in which right and strength will eventually prevail—the right of the mass to pay no more than the wants of the Government require; the strength of the millions who consume, and who, in the long run, will defeat the units who tax for inordinate profit. A revenue duty rising as high as  $83\frac{1}{2}$  per centum on some articles, less on others, with the expenses of importation, and the importer's profits, is a great protection; and wise manufacturers should be contented with it, and withdraw their interests from the field of politics, and avoid the fate of political parties. Mr. B. intended these remarks to be general, and to explain the principles on which he should give all his votes in the progress of this bill.

Mr. BATES said there was one point that ought, at this stage of the debate, to be better understood than it seemed to be at present; and that is, what constitutes a *revenue bill*. The Senator from Mississippi says the duty of 5 cents on cotton-bagging will check or prevent the importation of it, and therefore that this duty is not for revenue, but for protection. The Senator from New Hampshire says that a much less general average of duty than this bill provides will produce more revenue, and therefore the bill is a bill for protection, and not for revenue. The Senator from South Carolina maintains that 20 per cent. is the true revenue standard. Now, with all deference, he said it seemed to him that this is taking a narrow view of the subject—the view which a mere tenant at will, or sufferance, or for a year only, would take, who only looked to see how

much he could gather up and carry off from a plantation or farm during his brief possession of it, without any regard to its future condition or permanent improvement.

The Secretary of the Treasury—whose province it is, and in whom I have full confidence—sits down to devise the ways and means of carrying on the Government—not as a *politician*, but as a wise statesman; not during his official term merely, but for the permanent supplies of the treasury. He will come to the conclusion that the supplies ought to be derived from the customs—for this all-sufficient reason; among others: that about one-half the duties, in such case, will be paid by foreign producers, in return for what we have been obliged to pay, in the same way, as the tobacco-planters, wheat-growers, &c., can abundantly satisfy him.

In the next place, he will see that the customs must depend upon the *imports*, and the imports upon the *ability* of the people to pay. A nation, in the long run, can only import what it pays for; and what it can pay for, it will import. This is the only limit to consumption. The tendency of nations is uniformly, as it is of individuals in their expenditures, to go to the extent of their means—often beyond.

MONDAY, August 1.

*The Tariff Bill.*

The bill “to provide revenue from imports, and to change and modify existing laws imposing duties on imports, and for other purposes,” was taken up, as in Committee of the Whole; the question pending being on Mr. BUCHANAN's motion of Saturday, to strike out the twenty-seventh section of the bill, which reads as follows:

*And be it further enacted*, That the proviso to the sixth section of the act entitled “An act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights,” approved September 4th, 1841, be, and the same is hereby, repealed.

Mr. BUCHANAN said it was not his purpose to enter into the general discussion upon this interminable tariff question. He had frequently, on former occasions, had the opportunity of presenting his general views upon that subject to the Senate; and he should, therefore, waive all argument upon that topic, and proceed, as he had promised, very briefly to urge such considerations as he thought should induce the Senate to vote in favor of the amendment which he had proposed. The land distribution bill of September 4, 1841, enjoined the principle that, if duties should at any time be imposed on imports exceeding 20 per cent. *ad valorem*, the distribution of the land fund among the States should be suspended. The proposition contained in the twenty-seventh section of this bill was, that the distribution of the land fund should be continued, notwithstanding the in-

terests of the country imperatively required that duties should be imposed exceeding 20 per cent. And the simple question, therefore, arising upon his amendment, was, whether it was wise and politic to distribute the land fund, and, at the same time, impose these additional duties on imports. He would appeal most solemnly to the Senate to say, whether it was wise and proper that the treasury should continue in a state of insolvency; that the great domestic interests of the country should continue without that incidental protection which a revenue bill would afford; and this, for the sake of retaining this miserable land bill. That was the question, and the only question.

He understood that the whole sum distributable of the public land fund, for the first half of this year, was but \$380,000; the share of Pennsylvania, then, would be about \$38,000, and no more. And for the sake of this comparatively miserable pittance, were they going to continue the treasury in a state of bankruptcy, and to deprive all the domestic interests of the country of that incidental protection which a reasonable tariff would afford? He put it in the alternative, because he was justified in placing the question in that position. He was the last man in this country who would agree to legislate with a view to accommodate the opinions of the executive officer of the Government, no matter how well known they might be; but this was not the case here. The present President of the United States had declared, in a solemn and official form, that he would not, under any circumstances, approve a bill which raised the duties on imports above 20 per cent., and at the same time continued the distribution of the public lands.

The CHAIR considered it out of order to allude, in debate, to what the opinions of the Executive were.

The Treasury (said Mr. B.) is insolvent; and shall we suffer the national faith to be violated, for the purpose of retaining that clause relating to, and preserving the existence of, the land bill? The present income of the country was about one-half of the expenditure; and, in addition to that, they were indebted between twenty and thirty millions of dollars. If, then, the slightest suspicion could rest upon the question, ought they not to abandon the clause at once, and permit the land fund to return to the common treasury? What would be thought of an individual who acted in the manner in which this Government seemed disposed to act? Suppose a private individual were indebted twenty millions, and, having an income sufficient only to pay one-half of his expenditure, should refuse to accept an income, unless he were permitted to give away that which was justly due to his creditors: he would undoubtedly be deserving of the severest censure. And ought not this great country whose character is beyond all price—a country, the first in the world which had paid off a large national debt—to hold the preservation of her na-

tional faith of far greater consequence than the relinquishment of a pitiful sum derived from the public lands? That was the question.

Again: he would say a single word on the subject of domestic manufactures. He was in favor, most decidedly, of affording them incidental protection to the full amount, and no more, which would enable them to stand a fair competition with similar establishments in Europe. The manufacturing establishments in this country, erected at vast expense, affording employment to a great number of individuals, ought not to be suffered to go down. Every one must perceive that the increased demand, consequent upon such a procedure, would materially enhance the price of the goods, and would be as injurious to the consumer as to the manufacturer.

The return of the land fund, however, was absolutely requisite, in order to prevent a resort to direct taxation. The time would come—and he would undertake to say it was not far distant—when they would not be able to raise from imports all that was desired—at least, upon articles that did not receive incidental protection. And then what would be the condition of the manufacturers? When that time came, the contest would be between incidental protection and direct taxation. The hour would then arrive when the manufactures of the country must be prostrated; because, he would undertake to say, the idea of direct taxation could never be realized in practice in this country. The people of this country would never submit to the visits of the exciseman, sent to inquire into their private affairs, in order to raise taxes to support the Government, in a time of profound peace.

The time had been, he knew when the manufacturers desired the distribution of the land fund for the express purpose of compelling the Government to raise more revenue, that there might be more protection. That desire might exist with some of them, for aught he knew, at present; but the period when such a desire was general had passed away, and a new era was approaching. The land fund was a secure fund in peace and in war; at any time, and under all circumstances, they could borrow, if necessary, \$50,000,000 upon the pledge of the public lands, in order to meet any sudden emergency. And why, then, should the manufacturing interests, and those Senators who were interested in their favor, cling with the grasp of death to the distribution?

He trusted he had never attempted to play the demagogue on that floor; nor could he, he trusted, by any possibility, be brought to do so now. He would say this, however: if you restore the land fund, you may take the tax off tea and coffee; whereas, if the land fund continues to go to the States, you must impose a tax upon tea and coffee. The inference was irresistible—one or the other must be done. He (Mr. BUCHANAN) had procured a return, last fall, of the tea and coffee imported during the

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year 1840. It amounted to \$11,675,369 worth. In the year 1839, it was \$10,788,509. It was fair to infer, then, that the tax upon tea and coffee would amount to two millions and a quarter of dollars. The land fund, if we should be prosperous, a year or two hence, it was supposed would amount to about three millions. Now, (continued Mr. B.,) if you will withhold the land fund from the States, we will take off this tax of two millions and a quarter from the people of this country; and the question must inevitably be decided between the one alternative and the other. Strike out the twenty-seventh section of this bill, and I shall immediately move to make tea and coffee free articles.

Let us examine the matter for a single moment. Though not an old man, I can remember the time when those were considered articles of luxury. But now their use is universal; every man, woman, and child uses them: the poorest man in the country uses as much as the rich—ay, more, perhaps; for, being deprived of luxuries more expensive, he indulges the more in those within his reach. There is no article that you can conceive of, except bread, the tax upon which will operate so much like a poll-tax, as the articles of tea and coffee. The cottager in Indiana uses as much coffee as John Jacob Astor, the richest capitalist in America, and consequently pays as much duty upon that article as is paid by the wealthiest; and, therefore, I say that tax is more like a poll-tax than any other. Well, now, if this tax could be restored—and let me be understood on this, as well as all other subjects; I call it a tax, because we cannot produce this article, or any thing similar to it; if we could, I admit the effect would be, as in all cases, to reduce the price;—we cannot, by any protection, make the article one of home production. And what is the effect of this? The land fund goes to the States in their sovereign capacity, to relieve the capitalist from taxation, to relieve the property-holders from direct taxation, for the support of the State Government. And to enable you to make this distribution, you levy a poll-tax upon the whole country. As regards the article of sugar, the case is different. It is as much a necessary of life as tea or coffee; but we have a large interest in its manufacture in Louisiana—an interest which I would never abandon, because it is connected with agriculture. We must, however, levy a duty on sugar, or else we must destroy its culture. But there is no such reason for laying a duty upon tea and coffee; there is no reason that can be imagined, which is not in favor of relieving tea and coffee from taxation, provided we can do it, and that the interests of the country be not hazarded by a deficiency of revenue. I would do it, without a moment's hesitation. But if you retain the land fund for the benefit of the States, it will be impossible for you to remove this burden from the people.

Under these circumstances, I appeal to gentlemen to relinquish that fund; it may not be necessary to do so for any great length of time. Let gentlemen wait for a short time, and they may afterwards take the land fund, after having relieved the country from its embarrassed and impoverished condition.

Mr. CRITTENDEN observed, that he was sure the Senator from Pennsylvania had not been influenced by any demagogical motive to allude to the taxation of tea and coffee. He supposed he had taken these articles for illustration, and was persuaded, if they were not proposed to be taxed in this bill, the Senator would find other articles to be taxed for his illustrations; and could thus go through them all, till nothing was left for revenue. Such would be the effect of pursuing this line of argument. It might be said of any article of general consumption as well as tea and coffee—give up distribution, and to that extent you save the necessity of taxing articles of consumption.

If the Senator contends that this bill ought to be fashioned exactly to meet the Executive wishes expressed in his veto of the little tariff bill, it amounts to this: that the object of legislation is to look to—is to conform to Executive dictation, to secure his sanction of legislative action.

If this land fund is as paltry as the Senator says it is, why does he hold on to it so tenaciously for revenue, when, in doing so, he endangers the resources of the treasury, the honor of the country, and the credit and stability of the Government? He asks why do the friends of distribution hold on to it: they ask him, in their turn, why does he, and why do his friends, hang on to it with such desperate tenacity? As it is such a "petty, paltry fund," is it worth while to disappoint the hopes and expectations of so large a majority of the States and the people, who look to it not so much for the amount, as for the establishment of a great principle for which they have so long contended?

But the true question at issue was, whether the right of taxation should remain with the representative body, or be entirely controlled by the Executive. It was a question between national legislative will, and the will of one man.

If the Senator is so averse to the defeat of this great measure of revenue, to redound so much to the honor and credit of the Government, and to affect so beneficially the industry and prosperity of the country, why does he hold on so tenaciously to this "petty fund," and take up the Executive veto on the little tariff bill, to incite and invite the defeat of this measure also?

Mr. TALLMADGE observed that the principle now recognized by all was, that such a revenue bill should be passed as would give an amount of income necessary to an economical administration of the Government, and, at the same

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time, afford incidental protection to the industry of the country.

As to the question at issue—that of the distribution of the proceeds of the public lands—his sentiments heretofore were well known; and he should only now say, that his opinions had undergone no change.

He believed the only measure of the last session which had been so carried out as to give relief to the country, was the bankrupt law.

Now, it was urged that this revenue bill, in its present form, cannot become a law. He would say that no intimation of what may be the action of another branch of the Government should ever have any effect on him. Gentlemen had taken up the veto on the little tariff bill, and inferred from it that this bill is to share the same fate as that temporary measure. He inferred no such thing. Suppose any former President—General Washington, for instance—had thought fit to veto a bill; and suppose another bill of immensely superior consequence, and involving vastly more important interests, were to be sent to him; and suppose it contained no constitutional impediment: would not General Washington say, Let the will of the people take effect, and this bill become a law?

What is the great objection to the 27th section, as now introduced into this revenue bill? Gentlemen say it violates the compromise act. But was it not contemplated, at the time the compromise act was on its passage, that the proceeds of the public lands were to be no part of the revenue of the Government? Had not the land bill then passed both Houses of Congress, and been sent to the Executive for sanction—a bill taking the land fund from the treasury, and giving it to the States?

The Senator from Pennsylvania asks, Why stand upon this miserable pittance, and, by doing so, defeat the bill? But did not the gentlemen opposite adhere to the gratuity of lands to the new States? Was it not the understanding that it was part of the compact that the old States were to receive their portion of the distribution? The right to the 500,000 acres to each new State, which was in part the consideration for this distribution, is now to be considered a vested right, while the right of the old States to the distribution is to be violated.

If this revenue bill—this distribution—and some measure to regulate the currency, could be passed, the prosperity of the country might be looked to with certainty.

Mr. ARCHER, having given full expression to his opinions as to the measure of distribution, last session, should not now go at large into the subject. It was, however, necessary to say something in reference to the vote which he should now feel bound to give.

He had seen an open attempt made on the part of the Executive to defeat legislative action, by putting a veto on a question of the most mature and deliberate legislation, on a

ground which the President himself admits is a mere question of expediency.

There had been four great Whig measures of public interest passed by Congress in this Administration, and the Executive had vetoed three of them.

Upon a mere question of expediency, to veto a revenue bill like this would be a stretch of Executive power never attempted by the most arbitrary princes of that country upon whose institutions those of this country had been modelled. Never, in the mother country, had an instance been known of a bill of supply being vetoed—not even by the Tudors.

He would say, if the alternative were put, let this Government go into dissolution, sooner than he would, by his act, suffer any individual to put a bridle upon the legislative body, and, by a motion of the finger, control the action of the whole Government.

If there were men of any party ready to succumb to such dictation, and to go home made by their own act slaves, he would not be found among such men. If it was necessary, he would not only say perish commerce, perish credit, but let the Government fall to pieces, and the Union be dissolved, sooner than he should sanction, by his act, any measure which would abrogate the independence of the people's representatives.

Mr. LINN said, the gentlemen themselves acknowledge that they have placed the Government in the midst of a revolution. It is falling to pieces in their hands. Its credit at home and abroad is destroyed. The treasury is bankrupt. The country is disgraced by their incapacity; and now they threaten, as a necessary consequence of their own folly, the breaking up of the Government, and the dissolution of the Union. And all this is to happen because their own President will not let them invade the constitution, and violate the plighted faith of a solemn compact. The gentlemen shall have no excuse for leaving the Government to perish for want of sustenance and support. If they break up Congress, and go home, without doing their duty, they must take the responsibility on themselves. He now gave them warning, that he and his friends were ready to sit in their places, day in and day out, night in and night out, or both day and night, till all necessary, wholesome, and constitutional measures were adopted for the rescue of the Government from the degradation into which the gentlemen had plunged it. He and his friends would not consent to adjourn while the Government was in such a condition. If the gentlemen chose to do it, they must take the responsibility.

Mr. WALKER said he deplored the sentiments which had been expressed by gentlemen on the other side. Had it come to this, that the Government must be left destitute of means, because a portion of the two Houses of Congress conflict in their opinions with the President, in relation to a party measure? He hoped the honorable Senator, who had made

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such declarations to-day, would sleep upon what he had said—think on them, and present them to his patriotic feelings—think of his bleeding country,—ere he resolved to carry out his measures.

The Senator from Virginia (Mr. AROHER) had said that this act of the President would have brought an English monarch to the block; and that there was no instance in the history of that Government of a veto upon a bill of supplies. What was this bill? Not a bill of supplies, but a bill to *withhold* supplies—to withhold the legitimate revenue of the Government, (the land fund,) which even the Senator (Mr. AROHER) admits ought to go into the treasury. He concluded by expressing the hope that Senators on the other side would reconsider the determinations they had expressed in relation to this measure, and not permit the country to be ruined because of their differences with Mr. Tyler.

Mr. BAGBY then obtained the floor, but gave way to

Mr. SEVIER, on whose motion the Senate adjourned.

TUESDAY, August 2.

*The Tariff Bill.*

The bill "to provide revenue from imports, and to change and modify existing laws imposing duties on imports, and for other purposes," was taken up, as in Committee of the Whole; the question pending being on Mr. BUCHANAN's motion.

Mr. BAGBY said he should endeavor to show that there existed no difference between the power to distribute the proceeds of the public lands, and the power to distribute any other revenue from the public treasury; in fact, that no difference existed between this measure of distribution, and that of assumption, which now is consigned to a temporary sleep. He argued that to distribute \$3,000,000 to the States, which was derived from the sales of the public lands, required an equal exercise of the power as the distribution of \$3,000,000 to the States, which was derived from the customs. Whence came the right to distribute the public revenue? He knew no clause in the constitution which asserted it, and he deemed it to have been denied to the Federal Government by that sacred instrument. The act was certainly a violation of the constitution.

Mr. BERRIEN did not rise to enter into the discussion of the question now at issue, but merely to state the reasons which influenced him in the vote he should give. He had considered the time for carrying out the measure of distribution inexpedient when the question was under consideration at the last session; but when the bill was so modified as to remove his objections, he voted for it with pleasure.

It has now been found necessary to go beyond the tariff of 20 per cent. contemplated by

the proviso of the land bill. The condition of the Government is such, that it is agreed on all hands there must be a revenue considerably exceeding that rate of duty. The statement of the chairman of the Finance Committee shows that even the amount of revenue proposed to be supplied by this bill will not, for two or three years, be enough to keep the treasury from some embarrassment.

During these few years of embarrassment, he should be disposed to consider the same expediency which actuated him to advocate the proviso of the distribution act still existing, for the continuance of that proviso till the treasury shall be in a condition to do without the proceeds of the public lands. He should therefore have been glad, had he felt himself in a position to take part in advancing this bill, to have offered an amendment to the amendment of the Senator from Pennsylvania, the object of which would have been to suspend the distribution bill till the 30th of June, 1844. Some such arrangement as this would have afforded a neutral ground upon which all parties could meet. It would besides have these advantages: it would enable the land fund to be applied to the use of the Government at a time it would most need it; it would admit of an appeal being made to the people, which would decide the question of distribution; another Congress, fresh from the people, would, at the end of the term approaching the 30th of June, 1844, have an opportunity of further acting on the proviso, and either repealing it altogether, or further extending the suspension. But, beyond all these considerations, there would be the important one, that this much desired and indispensable measure of providing adequate revenue could be adopted when properly amended, in the harmonious spirit which, but for this question of distribution, all feel desirous of imparting relief to the treasury.

But he was admonished, by what had already occurred, that all efforts were now unavailing to improve or amend this bill. The determination so strongly expressed by those who have the control of the bill in the Senate to reject all amendments, no matter of what character or necessity; the undisguised purpose of carrying through the bill in the identical form in which it came from the House; the inexorable rejection of every amendment recommended by the Finance Committee,—seemed to be the result of a foregone conclusion, in obedience to some iron rule from which they were not to attempt to extricate themselves, no matter what might be the improvement offered, or the merits of any particular case of amendment. All alike—whether of prime necessity or organic importance—it was evident must bow to this iron rule. The action of the majority on these amendments had manifested a determination, on the part of the Senate, to reject any and every amendment. If he understood the nature of the votes the other day, (Saturday,) the understanding of those who have the



control of the bill was to pass it without amendment, to avoid the necessity of returning it to the other House. While this understanding prevails, it would be perfectly unavailing for him to offer the amendment which he had spoken of.

He did not agree with those who thought, should this bill fail, Congress ought to adjourn, and do nothing for the relief of the Government. It was their duty to provide the means of carrying on the Government; and he trusted they would not neglect that duty.

Mr. WOODBURY said he asked only two or three minutes of the attention of the Senate to what he considered the chief question involved in this motion. As to this, he differed from those who had preceded him.

The section proposed to be stricken out did, in fact, make a new distribution bill. This was the great objection to it in the tariff and in this crisis. The old bill passed last September, and which the President then approved, authorized a distribution of the proceeds of the public lands only in case a low and moderate duty, not above twenty per cent., would yield revenue enough to pay all our expenditures, and leave a surplus of what was collected from the lands. But this section authorizes the distribution when there is no surplus, with twenty per cent. duties. It authorizes it even in these embarrassed times—if there is no surplus without imposing at least thirty-six per cent. duties on an average, and fifty, eighty, a hundred, and a hundred and forty per cent. on several specific articles.

The Executive might, therefore, under his views of this question, as heretofore explained on our public records, and so might several Senators, assent to such a bill as that of the last session; but not to such a new, and materially new, distribution bill as this section seeks to introduce.

On this side of the House there is no wish, in connection with this revenue bill, to disturb the terms and substance of the distribution act of the last session. It is you, on your side, who now disturb that act. It is you who unsettle and change every thing, and introduce new embarrassments; and why? Not, I hope, to incommode the treasury, nor even to harass another department of the Government. But the tendency of this section clearly is to endanger the success of the whole revenue bill, as a financial measure. The provision is also out of place here. It is a section not in accordance with the professed object of the tariff—to fill the treasury; but is obviously to help to empty it.

There is another grave question connected with this section, repealing a vital proviso in the former distribution act. If we can hastily and lightly repeal that proviso in such a legislative compromise, we may, ere long, see all the other important provisions in that distribution repealed. When war comes, the proviso giving back the proceeds to the treasury may also be

repealed, because the States may then be as needy as now. So the provisos as to extra per cent. to the new States, as to the use of the share in this District, the 2 per cent. funds to some States, and numerous others, may all, in succession, be prostrated. Let us pause, then. Had we not better defer this grave measure of the 27th section, making, in several respects, an entirely new distribution, to a future occasion, and a separate bill, and strike it out of this tariff? It is no part of the tariff, legitimately. Let it stand alone, and on its own merits. Let not the whole tariff be exposed, as many anticipate, to a new veto and loss, merely to make the experiment of introducing a new distribution on new principles, and in a new condition of our fiscal affairs. And let nobody rail at the President for this jeopardy to the measure. It is jeopardy, caused by us—caused deliberately—caused by us unnecessarily. For what this is persisted in, the country must decide. On this side of the House, we wash our hands of it. We want a proper tariff passed, and in a proper tariff form, and not mixed up with other controversies; and, in fine, such as will yield a suitable revenue for the crisis. Let those who refuse this, take warning as to the responsibility; for none of us can go home with honor, unless we first fairly legislate for the occasion, and not patch up some impotent, temporary measure, unworthy the emergency and the true interests of the country.

Mr. WRIGHT said he desired, before the question was taken upon this amendment, to say a few words to the Senate; and it was simply on account of the position in which the Senator from Virginia had placed the question yesterday, that he was induced to trouble the Senate with any remarks. The Senator, if he (Mr. W.) properly understood the purport of his argument, assumed that the section relating to the distribution must be retained in the bill, or it could not become a law. This might be so; he (Mr. W.) was unable to say whether it was or not. But he could not, in conscience, vote for the bill if every other item were precisely what he desired, provided that section was retained in it. He did not believe he had a constitutional right to vote a tax in this form, for distribution among the States; and no man could question that this would be the effect of the bill. The Senator considered it a point of expediency. He (Mr. W.) considered it not only a question of principle, but of constitutional right. Although he would be compelled to differ from some of his most esteemed friends, politically speaking, yet he would be compelled to vote against the bill, unless the motion to expunge the 27th section prevailed. The bill could be passed, doubtless, by a majority of both Houses; but the doubt as to its becoming a law rested not here, but elsewhere, and would be determined by the fate of the motion now under consideration. He had no desire to violate the rules of debate; but he believed he had a right to assume that, if this

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section be stricken out by the voice of the Senate, the bill would meet with no obstruction to its becoming a law.

The question was then taken by yeas and nays on Mr. BUCHANAN's motion to strike out the 27th section of the bill, and resulted in the negative, as follows:

YEAS.—Messrs. Allen, Bagby, Benton, Buchanan, Calhoun, Cuthbert, Fulton, King, Linn, McRoberts, Preston, Rives, Sevier, Smith of Connecticut, Sturgeon, Tappan, Walker, Wilcox, Williams, Woodbury, Wright, and Young—23

NAYS.—Messrs. Archer, Barrow, Bates, Bayard, Choate, Clayton, Conrad, Crafts, Crittenden, Dayton, Evans, Graham, Huntington, Ker, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Simmons, Smith of Indiana, Sprague, Tallmadge, White, and Woodbridge—26.

And the Senate, at a quarter to 6 o'clock, adjourned.

THURSDAY, August 4.

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Mr. BENTON proposed an amendment, to put a stamp duty on the issue, and an annual tax on the circulation, of paper currency; and supported his proposition by an elaborate speech, of which we cannot give even an outline in this brief report; merely stating that Mr. B. declared his first object to be to raise revenue from an article which was able to pay, and ought to pay; and his next object was, to contribute to regulate the paper currency. He was certain Congress had constitutional power enough to regulate the paper currency, and had nothing to do but to exercise that power. A bankrupt act against banks—a stamp duty on the issue of all paper currency—and an annual tax upon its circulation—would accomplish the object, and free the country from the curse of depreciated paper on any day that Congress chose. The following was his amendment:

Sec. —. *And be it further enacted*, That from and after the last day of December, in the year 1842, there shall be laid and collected, throughout the United States, their Territories, and the District of Columbia, a stamp duty on the issue, and an annual tax on the circulation, of all paper-currency as follows: a stamp duty of thirty cents on each piece of paper constituting such currency, and an annual tax of twenty-five cents on the same for each year it is continued in circulation.

Sec. —. *And be it further enacted*, That every description of notes, orders, checks, or certificates, promising or ordering the payment of money or other things, and put into circulation by corporations, corporate bodies, bodies politic, individuals, or companies, which shall be transferable by delivery, without the written endorsement of each passer thereof, and without being subject to the laws which apply to inland bills of exchange, shall be deemed to be paper-currency within the meaning of this act; and shall be subject to the stamp duty and to the annual tax hereby imposed.

Sec. —. *And be it further enacted*, That every cor-

poration, corporate body, body-politic, individual, or company, which shall issue paper-currency of the foregoing description, shall have the same stamped, and pay the duty thereon before the same is issued or reissued after the taking effect of this act; and for that purpose shall apply to the United States marshal for the district within which such issue is intended to be made, who shall forthwith stamp the same, and collect the duty thereon, according to the regulations and instructions which he shall receive from the Secretary of the Treasury.

Sec. —. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury to prescribe the forms, marks, inscriptions, and colors, to be used for said stamps, and shall furnish the dies and machinery therefor to the respective marshals, with the necessary books for keeping the proper accounts; and for defraying the expenses of purchasing the said dies, machinery, and books, the sum of three thousand dollars, out of any moneys in the treasury not otherwise appropriated, be, and the same is hereby, appropriated.

Sec. —. *And be it further enacted*, That a fine of five thousand dollars shall be imposed on the officers severally of each corporation, and a fine of fifty thousand dollars on each corporation, corporate body, body-politic, individual, or company, which shall issue or reissue any paper-currency, without being stamped, and the duty paid, as aforesaid: *Provided*, That any officer who proves his dissent to such issue, and vote against it, shall not be subject to such fine; and all contracts, loans, or payments made by the corporations, corporate bodies, bodies-politic, individuals, or companies, made in paper-currency not stamped as aforesaid, or founded on such currency as a consideration, shall be null and void, and of no effect or validity in any court whatever.

Sec. —. *And be it further enacted*, That every corporation, corporate body, body-politic, individual, or company, which shall issue paper-currency of the foregoing description, shall make to the Secretary of the Treasury quarterly average returns of the number of notes or pieces of paper-currency so issued by them; from which quarterly average returns shall be made an annual average, which shall be deemed and held to be the number of notes or pieces of paper-currency kept in circulation by each party during the year, and on which the tax shall be collected; and said returns shall be made according to the forms prescribed by the Secretary of the Treasury; and a double tax, and a fine of fifty thousand dollars, shall be incurred by the party failing to make such returns.

Sec. —. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury to cause the annual taxes so ascertained to be due from the issuers of paper-currency, to be forthwith collected by the United States marshals, and duly accounted for, and paid over by them.

Sec. —. *And be it further enacted*, That the sum of five per cent. shall be allowed to the marshals on the amounts collected by them on stamps, and 2½ per cent. shall be allowed to them on their tax collections under this act; and the Secretary of the Treasury shall cause such bonds and sureties to be taken from the said marshals as he shall deem necessary to insure the faithful performance of their duties under this act.

Sec. —. *And be it further enacted*, That all double taxes incurred under this act for a default in not making returns of the circulation, shall be computed by the marshal of the district and approved by the Secretary of the Treasury according to the reputed capital em-

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played, or circulation issued, by the delinquent party; and all fines under this act shall be recoverable by action of debt, and shall be divided between the informer, the marshal of the district, and the district attorney of the United States prosecuting the same, in equal proportions.

Mr. BENTON further observed, that he was very certain, in a matter of such length and complexity, Senators were not prepared to vote upon it. He had not shown it even to more than one or two of his own friends. His object at present was to have it placed upon the journal; and he knew of no way to accomplish that, but by calling for the yeas and nays. If the Chair said it could be done without that, he would not ask the yeas and nays.

The CHAIR remarked that there were two ways in which it would go upon the journal—by the yeas and nays being taken, or a general wish expressed to that effect.

The yeas and nays were then ordered; and the question resulted in the negative, as follows:

YEAS.—Messrs. Allen, Benton, Linn, Smith of Connecticut, Sturgeon, Tappan, and Walker—7.

NAYS.—Messrs. Archer, Bagby, Barrow, Bates, Bayard, Choate, Clayton, Conrad, Crafts, Crittenden, Dayton, Evans, Huntington, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Preston, Rives, Simmons, Smith of Indiana, Sprague, Tallmadge, White, and Woodbridge—27.

FRIDAY, August 5.

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On motion of Mr. EVANS, the revenue bill was taken up and read a third time. The question being, "Shall this bill pass?"

Mr. CALHOUN rose, and said that the tariff bill of 1828 was justly called a bill of abominations. But, bad as it was, this is infinitely worse. The average of duties by this bill on the necessities of life will be 10 per cent. greater than was the average of the tariff bill of 1828. There were other differences. He might point to the harshness of this bill; its more immediate operation—going into effect on its passage, instead of giving three months, as the law of 1828 did. He might also point to the inequality of duties, and their injurious operation. There were two other important considerations: the setting aside of the compromise act, and the violation of the solemn pledge given in the distribution act—that if duties exceed 20 per cent., the land fund shall be restored to the treasury.

He pointed out the prosperous impulse which the industry of the country had received under the reduction of duties, resulting from the operation of the compromise act, notwithstanding the various impediments arising from bank expansions and contractions, and other counter-acting operations. This bill was a return, in the face of all these evidences of the advantages of comparatively free trade—of the iniquity of

the prohibitory system—to the protective system; and that, too, in the most odious form.

He pointed out what might easily have been the relief to the treasury from the land fund—what might have been the relief from retrenchment of expenditures—had not the policy and determination of the party now in power been to increase expenditures, and thereby to create a necessity for passing this bill for protection, and to create a debt which will require a national bank to manage it.

He pointed out the difference between a revenue tariff and a protective tariff. Revenue is friendly to importation; protection is hostile to it. He showed how glaring were the fallacies of all arguments in favor of duties for protection—how absurd as a source of revenue.

In laying duties, there are two points which will give the same amount of revenue—a maximum point for revenue, and a minimum point for revenue. If the maximum is transcended, importations are diminished and revenue diminished. If the minimum is reduced, the reverse takes place. Every increase of duty above the maximum for revenue, is a tax exclusively for protection, and, consequently, antagonistic to revenue.

The complaint of the manufacturers is, that prices are too low. To raise prices, they ask for monopolies. They might as well ask for leave to plunder. What right has Congress to give them this aid—this charity—this right to levy a bounty for themselves, at the expense of the consumer? Is this right found in the constitution? But, if such a thing could constitutionally be done, is not Congress bound first to inquire whether what the claimants of protection state is true or not? Has it been ascertained that prices are too low to sustain manufacturers, or that the protection demanded is at all necessary? Instead of making these inquiries, the manufacturers have been asked how much duties they wish for; and not a question has been asked on the other side: thus allowing Government to be made the instrument in the hands of one branch of the community, for transferring money into its pockets from the pockets of the other branch of the community. Such propositions have ever had their advocates and their arguments, as they now have.

The real competition is, not with foreigners, but with our own community; it is between one branch of home industry and another. Out off exports, and there will be no imports; neither would there be foreign competition nor home competition. It is asked that all the exchange which brings in imports shall be taxed for the protection of manufacturers. The exports from the soil of this country cannot be estimated at less than 100 millions of dollars—proceeding from the labor and cultivation of the soil, going abroad, and reproducing itself in imports. Here is a branch of industry, ten to one greater than that from manufactures. But protection is hostile to imports, and consequently to exports: then it is hostile to the

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industry of the ten, and fallaciously and fatally friendly to the one. He was not hostile to manufacturers. He was no enemy—he was an enlightened friend, unwilling to see a course pursued, which must reflect back injuriously on the manufacturer.

He proved that the effects of protection were to run through in four years, and then prove such a fallacy as to cause a fresh cry for increased protection; and that the end of the necessity for stimulants could no more be reached than the end of the drunkard's thirst for brandy. It is in vain for him to promise that this bottle shall be the last. When he drinks it, he is more clamorous than before for another last bottle; and so on, till he destroys himself.

Mr. C. entered into many details to show the fallacy of protection. But arguing on the mass of productions, and the effect of this bill on agricultural industry, was not so easily understood as taking a single item, and showing the effect on it. He would, therefore, select cotton as an illustration.

This bill, by prohibiting, to a certain extent, imports, diminishes exports; the cotton-grower's production must be diminished, to meet his diminished demand for exportation. As he diminishes production, he must economize. To effect this, he must restrict and lessen his expenditures outside of his plantation. He must raise his own necessities of life, and spend less upon the productions of manufactures. Thus the great law of retributive justice comes down upon the heads of the manufacturers, who are the cause of all this cramping of home industry from mistaken and selfish views. There will be no part of the community so disappointed as the manufacturers themselves. They will destroy their own market. Part of it will be irretrievably destroyed. This he further illustrated, by pointing out the effects of such a policy in withering up the growing consumption for the great staple of the country, resulting from the foreign demand.

He showed that other great agricultural interests would suffer alike—such as the tobacco interest, the navigating interest, and the sugar and grain-growing interests.

He would say to the opposite gentlemen—encourage the foreign commerce of the country; leave the home commerce to itself, and it will flourish more successfully without any stimulants, than it ever can by protective duties. It is only the country which can export in competition with all the world, that can outstrip other nations in prosperity. Was not the struggle of every other enlightened nation to throw off those fetters which are now to be riveted on the producing interests of this country by this bill?

You must encourage a sound currency and low taxes, you must encourage your foreign commerce. Young as you are as a nation, you are full grown in your manufactures. You must have a foreign market for the products of

your soil, or you cannot give sustenance to your manufactures.

Mr. C. illustrated this in a novel and striking manner.

The party in power was a high and influential party. Among other things in its system of policy, a high tariff was pronounced a blessing on the country. Acting up to this policy, what cared they how extravagant were expenditures, when every expenditure added to the tariff? What cared they for wastefulness, when every waste added to the tariff? What cared they for running in debt and borrowing, when that debt and that borrowing added to the tariff?

Why had he raised his voice on this occasion? Not that he hoped to stop the progress of this bill; for he knew that, if the voice of an angel called for its arrest, it would not be arrested. But he raised his voice for the dissemination of great truths, which, he knew, must ultimately prevail.

Mr. BENTON followed the Senator from South Carolina, (Mr. CALHOUN,) and spoke about an hour against the bill. He commenced with vindicating the tariff act of 1828 from the charge made against it by the Senator from South Carolina, that this act produced the surplus revenue which had done so much mischief in the country. Mr. B. admitted the mischief; but said that the surplus arose from the lands, not the customs: and was the result of receiving paper money for lands, until the specie circular reduced their sales. In support of this opinion, he read the following table of the receipts from lands and customs, from 1828 to 1837:

Years.	Customs.	Lands.
1828	\$23,205,523	\$1,018,808
1829	22,681,465	1,517,175
1830	21,922,891	2,329,356
1831	24,214,441	3,210,815
1832	28,465,237	2,623,381
1833	29,632,508	3,947,622
1834	16,214,957	4,857,610
1835	19,391,310	14,757,600
1836	23,409,940	24,877,179
1837	11,169,290	6,776,236

Mr. B. said the act of 1828 had its faults; but not that of producing the surplus, which took place after the compromise of 1833, and resulted from the lands, as the table showed. He said, also, there was an excuse for it with those who were determined upon the payment of the public debt, then amounting to 70 millions, and was paid off in 1835. Mr. B. said that payment of the debt was a great object with many of those who voted for the act of 1828—not for the mere name of it, but for the substantial advantage of reducing duties when it was paid. This reduction General Jackson proposed to make, and to make it upon the principle of discriminating between luxuries and necessities, and giving incidental protection to home industry. He was for incidental protection, resulting from a fair revenue duty; and read an

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extract from the address of the Republican convention in Virginia, in March, 1839, as containing what he believed to be the old principles of the Democratic party, found in the act of 1789, and in subsequent revenue acts:

"Nor is the tariff question finally adjusted; for it must be recollected that the compromise act expires in 1842, and before that period arrives, its provisions must be revised and resettled. It may happen, if a wise policy prevails, that our manufacturing brethren of the North and West will be content with such *incidental protection* as will be afforded by duties laid to supply the constitutional wants of the Government. But it is impossible to foresee what direction may be given to that subject by wily politicians, and the importunate demands of interested petitioners."

Mr. B. took up the concluding words of this extract, and said, what the able men who signed it could not foresee, was now revealed to us. The wily politicians and the interested petitioners had produced the monstrous bill before them, and the monstrous manner in which it was passed. This called from Mr. B. a severe examination of the bill, with a contrast between the promises and the performances of the gentlemen who had got possession of the Government. He displayed the character of the bill, being for protection direct, and not for revenue, and also for being political, in producing a certain effect upon the President. He classed its series under three heads—intrinsic iniquities—conjunction with the lands—and the mode of its passage. He explored each of these heads, and on the latter was vehement and emphatic in denouncing it as passed out of doors, and no amendment allowed in the Senate, or chance given for it to get back to the House, that they might correct what they found to be wrong. He treated it as a violation of the constitution to pass laws in this way—out of doors; and declared that he and his friends had never controlled any one's vote in caucus. He said they met in caucus; but it was to decide upon the conduct of business, and not to govern any Senator's vote. He said ten States on this floor had been deprived of their legislative authority, in making this tax bill of 54 pages; and that, by a vote out of doors—the vote which decided that no amendment should be made to the bill, and even that the eighteen amendments proposed by the Committee on Finance should be rejected by the votes of the committee themselves!

Mr. B. said that the design in preventing amendments must be for one of two purposes: either to send the bill to the President as it was, to produce some political effect from his action upon it; or to prevent the House of Representatives from retouching or amending their own work. In either event, he treated the conduct of the majority as factious and unconstitutional. But we have no space nor time for further notice of his speech in this running report. He concluded by saying that, after this bill was passed, (if it did pass,) the United States would sit for the picture of taxation,

which had been drawn in the Edinburgh Review some years ago. Mr. B. read the extract as follows; stating that we had one thing to add, which was not found in the English picture—and that was salt. Salt was free in England! it was heavily and unequally taxed here. In all the rest, the pictures were pretty much alike. He showed an English paper containing Sir Robert Peel's late tariff, and said that our bill was longer than his, and had a *drag net* section at the end of it, to catch all that was forgotten, and put 20 per cent. upon it. The following was the extract:

"Taxes upon every article which enters into the mouth, or covers the back, or is placed under the foot. Taxes upon every thing which is pleasant to see, hear, feel, smell, or taste. Taxes upon warmth, light, and locomotion. Taxes on every thing on earth, and the waters under the earth: on every thing that comes from abroad, or is grown at home. Taxes on the raw material; taxes on every fresh value that is added to it by the industry of man. Taxes on the sauce which pampers a man's appetite, and the drug that restores him to health; on the ermine which decorates the judge, and the rope which hangs the criminal; on the brass nails of the coffin, and the ribbons of the bride. At bed or board, *levant* or *couchant*, we must pay. The school-boy whips his taxed top, the beardless youth manages his taxed horse with a taxed bridle, on a taxed road. The dying Englishman pours his medicine which has paid 7 per centum, into a spoon that has paid 15 per centum; flings himself back upon his chintz bed which has paid 22 per centum; makes his will on an £8 stamp, and expires in the arms of an apothecary who has paid a licence of £100 for the privilege of putting him to death. His whole property is then immediately taxed from 2 to 10 per centum. Besides the probate, large fees are demanded for burying him in the chancel; his virtues are handed down to posterity on taxed marble; and he is then gathered to his fathers, to be taxed no more."

The question recurring on the passage of the bill, Mr. BUCHANAN demanded the yeas and nays; which were ordered.

Mr. EVANS then rose and addressed the Senate. He had hoped that this bill would have been suffered to proceed, without adverting to the past controversies of parties. He, himself, had abstained from such allusions, and would continue to do so. He should not have risen now, had it not been necessary for him, in the briefest possible manner, to answer a few remarks made by the Senators from South Carolina (Mr. CALHOUN) and Missouri, (Mr. BENTON.) They had asked where were those retrenchments and reductions which had been promised by the party now in power, when it was in the pursuit of power? He (Mr. E.) would have expected that they would at least wait till the books for one year had been made up. When the books shall have been made up, he would assure the gentlemen that they would find that considerable retrenchments had been made—considerable reductions in every department of the Government. The party in power had had to pay off arrearages left by their predecessors; and to provide for their debts. The

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charges made against the party now in power had been repeatedly refuted. But, as one of the most popular writers of the present day had said, there is nothing so tenacious of life as popular errors. Kill them here to-day, and you meet them to-morrow, a hundred miles off, as full of life and vigor as if they never had been killed.

Mr. E. entered into details of the appropriations of the late Administration to be met by this Administration, and also details of the revenue left to meet their appropriations.

Five millions of treasury notes, and 18 or 14 millions of revenue, were all that the late Administration left to meet their 20 millions of appropriations and outstanding debt and arrearages; and because the party now in power have had to raise means to meet these demands on the treasury, they are denounced as promoting extravagance, to raise tariff for protection.

The Senator from Missouri talked of this new imposition of twenty-seven millions of dollars. It is but a revision of the tariff, adding not more than seven millions of dollars to the taxation derived from duties on imports. Much is gained by the correction of frauds, which the Senator from New Hampshire, while Secretary of the Treasury, could not induce his Congress to correct.

All he (Mr. E.) asked, was revenue enough to pay the debts left by the late Administration, and pay all expenditures for the ordinary purposes of the Government. Give him the same revenue, and the same capital to expend, which that Administration had had, and he would engage to have surplus enough to distribute the proceeds of the lands for the benefit of the States, without feeling any inconvenience.

He would not enter into crimination or re-crimination; for he considered such a course out of place on an occasion like this.

When the gentlemen opposite were asked what they would propose for the support of the Government, and relief of the treasury from its present embarrassments, the Senator from South Carolina replied that, when expenditures were brought down to the minimum, and the land fund was restored to the treasury, he would tell what he would do.

Mr. E. adverted, somewhat in detail, to the arguments of the Senator from South Carolina, and to those of the Senator from Missouri, denying that greater prosperity existed now, than did previous to the passage of the compromise act.

He stated that the duties were now lower than they ever had been; yet no increase of importations had taken place. Instead of increased prosperity, every thing was going down. There is no bank now; no high taxes; plenty of money was to be had in the large cities, if there was any business to call for it; but it was lying idle. What evidence was all this of the blessing of low taxes? During 1833, '84, '85, '86, '87 the prices were high, and the

country was prosperous; but these were not times of low duties. The average of duties was higher during those years, than that of the present tariff bill; for the reduction under the compromise act was very inconsiderable until the last two years.

He did not see how a nation could be injured by having a balance in its favor between its exports and its imports, to be paid in gold and silver. It was just as it is between two laborers: when the labor of one is counted against the labor of the other, if a balance is due to one, it is fair it should be paid in specie, that he may have it to meet his debts and his taxes. When a balance is received by a nation in gold and silver, if it occurs according to the natural operations of trade, it must be an advantage—or he should read his books of political economy again.

Such tables as had been quoted showed nothing definitely. They only showed the quantity of business done, but did not show whether that business was done at a loss or gain.

The Senator from South Carolina had said that the amount of the annual exports of the country was one hundred millions. But the productions of the country were two thousand millions; and out of this two thousand millions, one hundred millions only are exported; leaving nineteen hundred millions to be consumed at home. Yet the whole prosperity of the country is said to be dependent on this one hundred millions of exports. The Senator imagines that the interests involved in those one hundred millions are ten to one, compared with the manufactures. If the Senator calculates all the artisans, artists, merchants, farmers, laborers, and consumers dependent on the manufacturers, he will find his estimate of ten to one ought to be reversed.

The Senator thinks prices may be very low, and wages very high. Such a thing may be within the limits of possibility, but not of probability. He, on the contrary, thought if there was a reduction of prices, the very first thing to feel the reduction was wages. He adverted to the distress prevailing in England, in proof of this.

The great test of the prosperity of a country was, in his mind, the high price of wages. What is to keep up the price of wages but high prices? But now a new doctrine is broached—that low prices and low wages are a blessing, and that our products may be exported. What was the use of sending our products abroad at low prices? Why send any thing abroad that can be consumed at home on more remunerating terms? Why should we suppose that, while we consume nineteen hundred millions of our products at home, we are to go to destruction because our exports of one hundred millions are not kept up?

If he read the signs of the times aright, he came to a different conclusion from that at which the Senator has arrived, when he asserts that nations are throwing off their trammels on

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trade. He (Mr. E.) believed the reverse; he believed that the majority of nations were adopting the protective system, and becoming their own manufacturers.

Mr. WOODBURY said that the Senator from Maine had been pleased to notice him by some personal allusions, which demanded a brief reply.

Mr. W. had said nothing whatever, as had been represented, of any natural rate of duty. But what he, in fact, did say, was, that the rate of 20 per cent. had been expressly agreed on in the compromise act as a just and sufficiently high rate on imports; that the opinions of such distinguished statesmen as were engaged in the compromise, and had then, as well as since, approved it, (and for whose conduct there had recently been claimed great glory,) were entitled to much respect; that several nations abroad had fixed on a rate below, or no higher than 20 per cent.; and that this was quite a high proportion of taxation on that kind of property, compared with what was usually imposed in this country on other property.

Was not this fair reasoning? And had the force of it been met by a single argument?

Why, sir, one fact is demonstrative of its correctness. Computing, as many have, the whole property in the Union at four thousand millions of dollars,—a tax of 20 per cent. on all that, would yield eight hundred millions; whereas not over seventy or eighty millions of taxes, of all kinds, will be collected yearly in the United States, even if this bill passes. That is not one-tenth so much as you would impose on imports by a rate of only 20 per cent.

Is that not irrefutable evidence that 20 per cent. is quite high enough, and even too high, for a fair proportion of taxation on imports alone?

Mr. SIMMONS and Mr. WRIGHT made a few remarks—the latter stating his anxiety to see the vote taken, as some excuse for postponing to another occasion a few inquiries he had to make of the chairman of the Finance Committee.

The question was then taken on the passage of the bill; and it was passed as follows:

YEAS.—Messrs. Archer, Barrow, Bates, Bayard, Choate, Clayton, Conrad, Crafts, Crittenden, Dayton, Evans, Huntington, Ker, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Simmons, Smith of Indiana, Sprague, Tallmadge, White, and Woodbridge—25.

NAYS.—Messrs. Allen, Bagby, Benton, Buchanan, Calhoun, Cuthbert, Fulton, Graham, King, Linn, McRoberts, Preston, Rives, Sevier, Smith of Connecticut, Sturgeon, Tappan, Walker, Wilcox, Williams, Woodbury, Wright, and Young—23.

The Senate then adjourned.

MONDAY, August 8.

Naval Schools.

Senate bill providing for the establishment of schools of instruction in the naval service of the United States was next taken up.

Mr. WILLIAMS was in favor of the system of a school for the naval service; but he was apprehensive that this attempt to establish five schools would fail. When officers of the navy are appointed to those schools, they are taken from the regular service; and a necessity is created for filling their places. The pay of officers for one school would be \$24,000; if three schools are established, the pay of officers will be \$72,000. This would be a considerable increase of expense. He apprehended, when the experiment was tried in five schools, there would be a failure. He thought one school would be found more successful.

Mr. ARCHER said the subject had been under consideration from the beginning of the session. It was notorious that it has been often matter of surprise, that, while the United States had taken such pains to benefit the service of the country by a military academy, no exertion had been made to establish a corresponding naval academy. He pointed out that, by the proposition of the bill, there would be no additional expense but that of \$5,000 for furniture, and the pay of teachers; as there would be no additional pay for officers, rations, or locations. He explained the reason for selecting vacant forts for the location of these schools. He could imagine no plan so free from expense, or so acceptable to the country and the Government.

The bill was then read a third time; and, on the question of its passage—

Mr. ALLEN called for the yeas and nays; which were ordered.

Mr. KING suggested the propriety, by general consent, of altering the bill so as to authorize an experiment to be made on one school only.

Mr. ARCHER explained, that there would be greater expense and danger of failing in attempting one school, than in trying the number proposed by the bill.

Mr. ALLEN said he had no doubt but that naval schools might have benefits attending them; but if now established, he feared they would, like West Point, degenerate. The West Point academy had become a nursery for wealthy young men, who obtained their education at the public expense, and then entered on the practice of law or the pursuit of some other profession. If these schools could be confined to the sons of poor widows, or of officers who have fallen in the service of their country, he might approve of them; but he feared they would become mere places where public men would get their own relations and friends educated at the public expense.

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He estimated that 8 out of 4 of the young men educated at West Point retired from that place to practise law, or to enter some profession. He regarded *service* on board of a ship as the best school to which the young men of the navy could go. At present, they entered at the age of 18 or 14, and had every facility to acquire experience of all kinds. In their long life—travelling every quarter of the globe—they were afforded opportunities to acquire information upon all subjects. He did not oppose the bill before the Senate on account of any opposition to the navy or army service; but because the institutions to be created would degenerate, and become, like West Point, a place of patronage, where the sons of the rich, and those able to educate them, would obtain commissions, instead of those of humbler, but equally worthy parentage. He expressed it as his opinion that the academy at West Point should be remodelled, if not entirely dispensed with.

Mr. AROKER observed, that the objection of the Senator from Ohio was to any school at all, as well as to the five schools proposed. He was sure the Senator from South Carolina could not be opposed to any naval school for this Government. At 14 years of age, a young man can go into the navy as midshipman. How far can he be qualified to make an able officer at that age? An efficient naval officer should be well instructed in many things, besides the mere working of a ship. Very often the highest questions of diplomacy are necessarily referred to the officers of the navy. He had always thought it an opprobrium to this Government that it had gone to no expense, and had made no adequate effort to provide efficient officers trained from their youth for the service. All who, with him, attached importance to the real value of the naval service, would unite with him in sustaining this bill.

Mr. KING had none of the fears entertained by the Senator from Ohio. He should prefer an experiment of one school at first; but, if he could not get the bill modified to that extent, he would vote for the bill, even as it is. There were professors on board ships already for the instruction of midshipmen. Would it not be of great importance to midshipmen not on duty, to have these schools to resort to, for completing their education?

Mr. SMITH, of Connecticut, objected to the whole system of forming Government hot-beds for stimulating one class of individuals to rise at the expense of the public, above the natural talents, enterprise, and ability of other individuals. It is raising up a barrier against the latter, and shutting them out from the fruits of honorable ambition, which ought to be left open to the sons of every citizen, and not confined to a favored few.

Mr. BUCHANAN remarked, that he should not have said a word upon this bill but for the fact that the yeas and nays had been called. Inasmuch, however, as he had determined to

vote against it, and did not wish to be considered hostile to the navy, or to education, he would say a few words in explanation of his vote. He thought that we were a nation of magnificent ideas; but, unfortunately, we had not the money to carry them out. This bill contained about as splendid a scheme as was ever before Congress. If it was confined to the establishment of one school only, he would not oppose it. But what did it propose? To transfer five of our fortifications from the superintendence of the War Department to that of the Navy Department, which hereafter was to have exclusive control over them. Thus five of our military fortifications, erected at great expense, for the protection of our people, were to be put in the possession of the Navy Department. And why? Five schools were to be established: to teach whom? At present there were 490 midshipmen, each of whom was required to serve three years on ship before he could be examined. Therefore, the number who could be in those schools at once amounted to 108. At this time of the day, when we were reducing all our expenditures, and it had been determined that no more midshipmen should be appointed, he could not vote for such a measure as this.

But it has been said that this measure would cost but little. [Mr. AROKER. I said it would be a saving.] Yes, that would save money to the Government! This was the way in which all these schemes were insinuated into favor. Let us see what it will cost. The Secretary of the Navy is to have an appropriation of \$2,000, to fit out the five fortifications for the purposes of naval schools. Now, does any one suppose that \$400 each would be sufficient to place these fortifications in a proper condition for schools? Four hundred dollars to convert into schools fortifications erected at the expense of millions!

But the Secretary is also authorized to appoint as many teachers of foreign languages as he may think fit, at \$800 per annum, and two rations per day. How many officers are you creating by this authority? You know not. There is no limit put upon the Secretary. His power is unlimited, and language is general. Again: \$1,000 is to be appropriated to the purchase of a model steam-engine for each of the five schools. Here is \$5,000 for the use of model engines—to teach what? To teach the boys, who should know their use and application. To be used where? At the fortifications, instead of on the ships where they are applied, and their power brought into play. In addition to these items, the bill proposes to appropriate \$5,000 for the purchase of necessary furniture and for contingent expenses.

He admitted that the navy had covered itself with glory, and that its officers were intelligent men. He was willing to give them proper instruction; and had the Secretary proposed to establish one, instead of five schools, he would not have determined to vote against the bill.



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At present, however, when Congress was reducing all the expenses of the Government, and when the midshipmen would be reduced, he could not consent to any such proposition as the one before the Senate. This scheme was but the foundation for a larger establishment. West Point Academy was started upon a much less appropriation. Get these fortifications into the power of the Secretary of the Navy, and, ere long, there will be a magnificent establishment, and the Secretary soon clothed with the power to send whom he pleases to these schools, to be educated by the Government.

Mr. CALHOUN thought if one central school was established, in which all the forces intended to be scattered on several institutions were concentrated, it would be vastly better than making this scheme of several schools.

Mr. ARCHER moved a reconsideration of the vote ordering the bill to be engrossed for a third reading.

The motion was agreed to; and the vote was reconsidered.

TUESDAY, August 9.

*Naval Schools.*

The bill to provide for the establishment of naval schools was taken up as the unfinished business of yesterday, under the special order.

The question was taken on striking out the word "five;" and it was stricken out.

Mr. CALHOUN was of opinion there should be only one school; and that should be somewhere on the Chesapeake Bay. He would move to fill the blank with "one."

Mr. ARCHER asked the Senator from South Carolina to include the location on the Chesapeake Bay.

Several suggestions were made by different Senators, as to location; which resulted in its being fixed at some fortification at or near Fort Monroe: this amendment was adopted.

The question was then put, "Shall the bill be engrossed for a third reading?"

Mr. WOODBURY stated that the first and indispensable point with a young officer was, whether he could bear the exposure and roll of the ocean. If he could not, all expense in educating him for the service was lost. Hence the first order long had been, and should continue to be, an order to sea. After that experiment, if the constitution and tastes of the individual proved suitable, it was not only proper to give him aid by literary and scientific instruction on shipboard, but, when off duty, on shore. The deck of the vessel, however, was the best school-house or academy to begin with; and there to mingle explanations and reading with actual experiment. Even on shore, the teaching should be rather to occupy suitably his leisure hours, and advance him in his naval pursuits, than to give him land habits or land tastes. The naval officer should be a sailor—an informed, intelligent, moral, and

intellectual sailor, if you please; but still a son of the ocean, and dedicated, heart and soul, for life, to all its arduous duties—great exposure and high responsibilities. In truth, his *true home is on the mountain wave.*

Mr. W. had no great objection to changing a receiving ship (the usual place for instruction) to a fort or barracks, or other suitable building connected with some naval station; though, in some respects, a vessel had advantages for illustrations of nautical terms, and for forming nautical tastes and habits. A vessel should be used for short experimental cruises frequently, even if the school was on shore. But he entertained a decided opinion that the whole establishment should be under naval officers, naval discipline, and the jurisdiction of some naval station. And so far from admitting to the school any not officers, or officers before having seen sea-service, he felt confident that abuses would creep in, and the whole scheme prove abortive, if either of these courses was tolerated. Such, in a few words, were his general views on this topic. Assured as he was that this school would be conducted on the principles he approved, his vote would be given for the bill.

The question was then taken, and resulted in the affirmative, as follows:

YEAS.—Messrs. Archer, Barrow, Bayard, Buchanan, Calhoun, Choate, Clayton, Crafts, Dayton, Evans, King, Mangum, Miller, Morehead, Rives, Sevier, Smith of Indiana, Sturgeon, Walker, Williams, Woodbury, and Young—22.

NAYS.—Messrs. Allen, Bagby, Benton, Smith of Connecticut, and Woodbridge—5.

HOUSE OF REPRESENTATIVES.

TUESDAY, August 9.

*The Tariff Veto.*

The SPEAKER announced "A Message from the President of the United States;" and he handed it to the Clerk, who read the following

MESSAGE.

*To the House of Representatives of the United States:*

It is with unfeigned regret that I find myself under the necessity of returning to the House of Representatives, with my objections, a bill entitled "An act to provide revenue from imports, and to change and modify existing laws imposing duties on imports, and for other purposes." Nothing can be more painful to any individual called upon to perform the chief executive duties under our limited constitution, than to be constrained to withhold his assent from an important measure adopted by the Legislature. Yet he would neither fulfil the high purposes of his station, nor consult the true interests or the solemn will of the people—the common constituents of both branches of the Government—by yielding his well-considered, most deeply fixed, and repeatedly declared opinions, on matters of great public concernment, to those of a co-ordinate department, without requesting that department seriously to re-examine the subject of their difference. The exercise of some independence of judgment in regard to all acts of legisla-

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tion, is plainly implied in the responsibility of approving them. At all times a duty, it becomes a peculiarly solemn and impressive one when the subjects passed upon by Congress happen to involve, as in the present instance, the most momentous issues; to affect variously the various parts of a great country; and to have given rise, in all quarters, to such a conflict of opinions as to render it impossible to conjecture, with any certainty, on which side the majority really is. Surely, if the pause for reflection, intended by the wise authors of the constitution, by referring the subject back to Congress for reconsideration, be ever expedient and necessary, it is in precisely such a case as the present.

On the subject of distributing the proceeds of the sales of the public lands, in the existing state of the finances, it has been my duty to make known my settled convictions on various occasions during the present session of Congress. At the opening of the extra session, upwards of twelve months ago, sharing fully in the general hope of returning prosperity and credit, I recommended such a distribution; but that recommendation was even then expressly coupled with the condition that the duties on imports should not exceed the rate of 20 per cent. provided by the compromise act of 1833. These hopes were not a little encouraged, and these views strengthened, by the report of Mr. Ewing, then Secretary of the Treasury, which was shortly thereafter laid before Congress, in which he recommended the imposition of duties at the rate of 20 per cent. *ad valorem* on all free articles, with specified exceptions; and stated, "if this measure be adopted, there will be received into the treasury from customs, in the last quarter of the present year (1841), \$5,300,000; in all of the year of 1842, about \$22,500,000; and in the year 1843, after the final reduction under the act of March 2, 1833, about \$20,800,000;" and adds, "It is believed that, after the heavy expenditures required by the public service in the present year shall have been provided for, the revenue which will accrue from that, or a nearly approximate rate of duty, will be sufficient to defray the expenses of the Government, and leave a surplus to be annually applied to the gradual payment of the national debt, leaving the proceeds of the public lands to be disposed of as Congress shall see fit." I was most happy that Congress, at the time, seemed entirely to concur in the recommendations of the Executive; and, anticipating the correctness of the Secretary's conclusions, and in view of an actual surplus, passed the distribution act of the 4th September last, wisely limiting its operation to two conditions—having reference, both of them, to a possible state of the treasury, different from that which had been anticipated by the Secretary of the Treasury, and to the paramount necessities of the public service. It ordained that if, at any time during the existence of that act, there should be an imposition of duties on imports inconsistent with the provisions of the act of 2d March, 1833, and beyond the rate of duties fixed by that act, (to wit, 20 per cent. on the value of such imports, or any of them,) then the distribution should be suspended, and should continue so suspended, until that cause should be removed. By a previous clause it had, in a like spirit of wise and cautious patriotism, provided for another case, (in which all are even now agreed,) that the proceeds of the sales of the public lands

should be used for the defence of the country. It was enacted that the act should continue and be in force until otherwise provided by law, unless the United States should become involved in war with any foreign power; in which event, from the commencement of hostilities, the act should be suspended until the cessation of hostilities.

Not long after the opening of the present session of Congress, the unprecedented and extraordinary difficulties that have recently embarrassed the finances of the country, began to assume a serious aspect. It soon became quite evident, that the hopes under which the act of 4th September was passed, and which alone justified it in the eyes either of Congress who imposed, or of the Executive who approved, the first of the two conditions just recited, were not destined to be fulfilled. Under the pressure, therefore, of the embarrassments which had thus unexpectedly arisen, it appeared to me that the course to be pursued had been clearly marked out for the Government by that act itself. The condition contemplated in it, as requiring a suspension of its operation, had occurred. It became necessary, in the opinions of all, to raise the rate of duties upon imports above 20 per cent.; and with a view both to provide available means to meet present exigencies, and to lay the foundation for a successful negotiation of a loan, I felt it incumbent upon me to urge upon Congress to raise the duties accordingly, imposing them in a spirit of wise discrimination, for the two-fold object of affording ample revenue for the Government, and incidental protection for the various branches of domestic industry. I also pressed, in the most emphatic, but respectful language I could employ, the necessity of making the land sales available to the treasury, as the basis of public credit. I did not think that I could stand excused, much less justified, before the people of the United States, nor could I reconcile it to myself, to recommend the imposition of additional taxes upon them, without, at the same time, urging the employment of all the legitimate means of the Government towards satisfying its wants. These opinions were communicated in advance of any definitive action of Congress on the subject either of the tariff or land sales, under a high sense of public duty, and in compliance with an express injunction of the constitution; so that if a collision (extremely to be deprecated as such collisions always are) has seemingly arisen between the Executive and Legislative branches of the Government, it has assuredly not been owing to any capricious interference, or to any want of a plain and frank declaration of opinion, on the part of the former. Congress differed in its views with those of the Executive, as it had undoubtedly a right to do; and passed a bill virtually for a time repealing the proviso of the act of the 4th September, 1841. The bill was returned to the House in which it originated, with my objections to its becoming a law. With a view to prevent, if possible, an open disagreement of opinion on a point so important, I took occasion to declare, that I regarded it as an indispensable prerequisite to an increase of duties above 20 per cent., that the act of the 4th September should remain unrepealed in its provisions. My reasons for that opinion were elaborately set forth in the message which accompanied the return of the bill—which no constitutional majority appears to have been found for passing into a law.

The bill which is now before me proposes, in its 27th section, the total repeal of one of the provisions in the act of September; and, while it increases the duties above 20 per cent., directs an unconditional distribution of the land proceeds. I am therefore subjected a second time, in the period of a few days, to the necessity of either giving my approval to a measure which, in my deliberate judgment, is in conflict with great public interests; or of returning it to the House in which it originated, with my objections. With all my anxiety for the passage of a law which would replenish an exhausted treasury, and furnish a sound and healthy encouragement to mechanical industry, I cannot consent to do so at the sacrifice of the peace and harmony of the country, and the clear-cut convictions of public duty.

For some of the reasons which have brought me to this conclusion, I refer to my previous messages to Congress, and briefly subjoin the following:—

1. The bill unites two subjects, which, so far from having any affinity to one another, are wholly incongruous in their character. It is both a revenue and an appropriation bill. It thus imposes on the Executive, in the first place, the necessity of either approving that which he would reject, or rejecting that which he might otherwise approve. This is a species of constraint to which the judgment of the Executive ought not, in my opinion, to be subjected. But that is not my only objection to the act in its present form. The union of subjects wholly dissimilar in their character in the same bill, if it grew into practice, would not fail to lead to consequences destructive of all wise and conscientious legislation. Various measures, each agreeable only to a small minority, might, by being thus united, (and the more, the greater chance of success,) lead to the passing of laws, of which no single provision could, if standing alone, command a majority in its favor.

2. While the treasury is in a state of extreme embarrassment, requiring every dollar which it can make available; and when the Government has not only to lay additional taxes, but to borrow money to meet pressing demands; the bill proposes to give away a fruitful source of revenue—which is the same thing as raising money by loan and taxation—not to meet the wants of the Government, but for distribution: a proceeding which I must regard as highly impolitic, if not unconstitutional.

A brief review of the present condition of the public finances will serve to illustrate the true condition of the treasury, and exhibit its actual necessities. On the 5th of August, (Friday last,) there was in the treasury, in round numbers, \$2,150,000 Necessary to be retained to meet trust funds . . . . . \$360,000

Interest on public debt due in October . . . . .	80,000
To redeem treasury notes and pay the interest . . . . .	100,000
Land distribution, under the act of the 4th September, 1841 . . . . .	640,000
	<hr/>
	1,180,000

Leaving an available amount of . . . . . 970,000

The Navy Department had drawn requisitions

on the treasury, at that time, to meet debts actually due; among which are bills under protest for \$1,414,000—thus leaving an actual deficit of \$444,000.

There was on hand about \$100,000 of unissued treasury notes, assisted by the accruing revenue, (amounting to about \$150,000 per week, exclusive of receipts on unpaid bonds,) to meet requisitions for the army, and the demands for the civil list.

The withdrawal of the sum of \$640,000, to be distributed among the States, as soon as the statements and accounts can be made up and completed, by virtue of the provisions of the act of the 4th September last, (of which nearly a moiety goes to a few States, and only about \$383,000 is to be divided among all the States,) while it adds materially to the embarrassments of the treasury, affords to the States no decided relief.

No immediate relief from this state of things is anticipated, unless (what must most deeply be deplored) the Government could be reconciled to the negotiations of loans already authorized by law, at a rate of discount ruinous in itself, and calculated most seriously to affect the public credit. So great is the depression of trade, that even if the present bill were to become a law, and prove to be productive, some time would elapse before sufficient supplies would flow into the treasury; while, in the mean time, its embarrassments would be continually augmented by the semi-annual distribution of the land proceeds.

Indeed, there is but too much ground to apprehend that, even if this bill were permitted to become a law—alienating, as it does, the proceeds of the land sales—an actual deficit in the treasury would occur, which would more than probably involve the necessity of a resort to direct taxation.

Let it be also remarked, that \$5,500,000 of the public debt becomes redeemable in about two years and a half, which, at any sacrifice, must be met; while the treasury is always liable to demands for the payment of outstanding treasury notes. Such is the gloomy picture which our financial department now presents, and which calls for the exercise of a rigid economy in the public expenditures, and the rendering available of all the means within the control of the Government. I most respectfully submit, whether this is a time to give away the proceeds of the land sales, when the public lands constitute a fund which, of all others, may be made most useful in sustaining the public credit. Can the Government be generous and munificent to others, when every dollar it can command is necessary to supply its own wants? And if Congress would not hesitate to suffer the provisions of the act of 4th September last to remain unrepealed, in case the country was involved in war, is not the necessity for such a course now just as imperative as it would be then?

3. A third objection remains to be urged, which would be sufficient, in itself, to induce me to return the bill to the House with my objections. By uniting two subjects so incongruous as tariff and distribution, it inevitably makes the fate of the one dependent upon that of the other, in future contests of party. Can anything be more fatal to the merchant or manufacturer than such an alliance? What they most of all require is a system of moderate duties, so arranged as to withdraw the tariff question, as far as possible, completely from the arena of political contention. Their chief want is

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permanency and stability. Such an increase of the tariff I believe to be necessary, in order to meet the economical expenditures of Government. Such an increase, made in the spirit of moderation and judicious discrimination, would, I have no doubt, be entirely satisfactory to the American people. In the way of accomplishing a measure so salutary, and so imperatively demanded by every public interest, the legislative department will meet with a cordial co-operation on the part of the Executive. This is all that the manufacturer can desire, and it would be a burden readily borne by the people. But I cannot too earnestly repeat, that, in order to be beneficial, it must be permanent; and in order to be permanent, it must command general acquiescence. But can such permanency be justly hoped for, if the tariff question be coupled with that of distribution—as to which a serious conflict of opinion exists among the States and the people; which enlists in its support a bare majority—if, indeed, there be a majority—of the two Houses of Congress? What permanency or stability can attach to a measure which, warring upon itself, gives away a fruitful source of revenue at the moment it proposes a large increase of taxes on the people? Is the manufacturer prepared to stake himself and his interests upon such an issue?

I know that it is urged (but most erroneously, in my opinion) that instability is just as apt to be produced by retaining the public lands as a source of revenue, as from any other cause; and this is ascribed to a constant fluctuation, as it is said, in the amount of sales. If there be any thing in this objection, it equally applies to every imposition of duties on imports. The amount of revenue annually derived from duties is constantly liable to change. The regulations of foreign Governments, the varying productiveness of other countries, periods of excitement in trade, and a great variety of other circumstances, are constantly arising to affect the state of commerce, foreign and domestic, and, of consequence, the revenue levied upon it. The sales of the public domain in ordinary times are regulated by fixed laws, which have their basis in a demand increasing only in the ratio of the increase of population. In recurring to the statistics connected with this subject, it will be perceived that, for a period of ten years preceding 1834, the average amount of land sales did not exceed \$2,000,000.

For the increase which took place in 1834-'5 and '6, we are to look to that peculiar condition of the country which grew out of one of the most extraordinary excitements in business and speculation that have ever occurred in the history of commerce and currency. It was the fruit of a wild spirit of adventure, engendered by a vicious system of credits, under the evils of which the country is still laboring, and which it is fondly hoped will not soon recur. Considering the vast amount of investments made by private individuals in the public lands during those three years, and which equalled \$18,000,000, (equal to more than 20 years' purchase,) taking the average of sales of the ten preceding years, it may be safely asserted that the result of the public land sales can hold out nothing to alarm the manufacturer with the idea of instability in the revenues, and consequently in the course of the Government.

Under what appears to me, therefore, the soundest considerations of public policy, and in view of

the interests of every branch of domestic industry, I return you the bill, with these my objections to its becoming a law.

I take occasion emphatically to repeat my anxious desire to co-operate with Congress in the passing of a law which, while it shall assist in supplying the wants of the treasury, and re-establish public credit, shall afford to the manufacturing interests of the country all the incidental protection they require.

After all, the effect of what I do is substantially to call on Congress to reconsider the subject. If, on such reconsideration, a majority of two-thirds of both Houses should be in favor of the measure, it will become a law, notwithstanding my objections. In a case of clear and manifest error on the part of the President, the presumption of the constitution is, that such majorities will be found. Should they be so found in this case, having conscientiously discharged my own duty, I shall cheerfully acquiesce in the result.

JOHN TYLER.

WASHINGTON, August 9th, 1842.

The Message having been read through—

Mr. FILLMORE obtained the floor. He said he regarded the question presented in the Message as one of too much importance to be considered until the Message could be printed, and a copy placed in the hands of each member. He hoped the House would agree to the motion he should make; which was, that the Message of the President be entered on the journal, as prescribed by the constitution; that it be printed, and that its consideration be postponed until to-morrow. Upon this motion, he moved the previous question.

The previous question was then sustained, and Mr. FILLMORE's motion adopted.

WEDNESDAY, August 10.

*The Tariff Veto.*

The SPEAKER announced the special order to be the reconsideration of the tariff bill, returned yesterday with the objections of the President.

Mr. ADAMS, who had the floor, made, in the commencement of his remarks, some observations, which were lost to the reporter, before order was sufficiently restored: they were understood, however, to be as expressions of his regret at the collision which had taken place between the Executive and Legislative branches of the Government. He was understood, further, to express it as his opinion, that if the President had yielded up his opinions to the majority in Congress, and signed the bill, every thing would have been forgotten and forgiven him—every thing that had taken place before, and which had caused that state of distress in which the country was at present involved, and in which he feared it was destined long to continue, would have been remedied. Peace, prosperity, credit, and honor, would have taken the place of all these distresses which now hang over the country. The mere reconciliation of the two branches of the Legislature with the

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Executive would, of itself, have been hailed with joy; and that reconciliation would have been the harbinger of joyous and prosperous times to the country. Sir, (said Mr. A.,) that hope has been blasted; and now, by the paper before the House, the Executive and Legislative branches of the Government are placed in a state of civil war, and for which there was, in his opinion, no remedy, but that remedy which the people must take in their own hands. War, he said, was declared; and he admitted now, that on the part of the Executive himself, there was no retreat without disgrace; and he held that this and the other House of Congress could not retreat, without being disgraced also. The position was taken on both sides; the issue was given and accepted; and now, there was nothing left but an appeal to the God of battles—which might God, in his infinite mercy, prevent. (Laughter.)

The issue was complete; and now, though not concurring in the sentiments of his colleague, (Mr. CUSHING,) that it was the destiny of this Congress to accomplish the prostration of the Government of the country, he concurred with him in the result; and the question now was, on whom the responsibility would rest. His colleague had already laid this responsibility on Congress—meaning thereby the majority of the two Houses. They were told yesterday by another gentleman, that, although he did not concur in the imputation thrown on Congress by his colleague, and that, from an *esprit du corps*, when the question should come to issue, he would be found with the House and with Congress, yet they would find it a difficult task to put it on the shoulders where it belonged, and cast it from themselves. Assuming that there was nothing further to take place on this subject between the Executive and the Legislature—which, as he said before, could not take place without disgrace on one side or the other—he wished to submit a few observations of inquiry as to where the responsibility should fall.

He should not have to enter into the details of the comparison which would be necessary for the people of this country to institute between the proceedings of the Congress of the United States, and the proceedings of the Executive, since he had been in the Executive chair. He would simply allude to the points which it would be necessary to discuss, in comparing the acts and proceedings of the Legislative body since the commencement of the present Administration, and of the action of the Executive in regard to them. In referring to the acts of Congress, it was with very great satisfaction that he had been able to say that a very great portion of the rancor of party spirit, which they had witnessed, had nothing to do with the proceedings of Congress; that some of the most important acts of the Congress of the United States had had very little of party in them; and that the party styling themselves Democratic, contributed as much as the major-

ity to those acts, which he should now endeavor to enumerate.

[Mr. A. proceeded to consider the various measures which had been before Congress at this and the extra session, and concluded as follows:—]

He had not come to an examination of the reasons assigned by the President in his Message. He was about to come to it; for, coming from the source it did, and containing such a multitude of reasons, he (Mr. A.) thought respect was due to it, (Laughter,) if they did not treat it with the utmost degree of gratitude. (Renewed laughter.) He would, therefore, conclude by moving that the Message containing the reasons of the President for his vetoing this bill, be referred to a Select Committee, with instructions to report to the House upon it. The committee he should prefer to see rather large—at least as large as any standing committee: he would go beyond that number, and name thirteen; it was the good old number of the original States of this Union. He would make it twenty-six—the number of all the States of the Union—but he was apprehensive that number would be too large—at least so large as to make it probable that there might be a good deal of delay in obtaining a report. He should, therefore, make a motion that this Message be referred to a Select Committee of thirteen members, with instructions to report upon it to the House.

Mr. FOSTER wished to understand whether the Speaker had decided to entertain the motion of the gentleman from Massachusetts to refer?

The SPEAKER said the motion was entertained.

Mr. FOSTER said then he appealed from that decision, and he relied on the provision of the constitution.

The constitution plainly pointed out what should be their proceedings on the return of the bill with the President's veto; and the Chair could entertain no motion which gave it a different direction than the constitution prescribed. The constitution prescribed the form of proceeding; and, therefore, with good reason, the rules of the House had not, amongst their provisions, any thing to contravene the constitution. He maintained, therefore, that the Chair could not entertain the motion of the gentleman from Massachusetts; but, in the language of the constitution, the House must "proceed to reconsider" and determine on the passage of this bill.

The SPEAKER, in further explanation, said, if a motion to arrest debate by the previous question were made, it would be in order. And again: was the House bound to consider the bill, without an adjournment or other motions, which were always in order under the ordinary rules of proceeding? And would not a motion to refer to a Select Committee, or to a Committee of the Whole, be just as much the action

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of that body upon it, as if they sat on it here?

Mr. CUSHING said the question was, "Will the House pass this bill, notwithstanding the objections of the President?" and that, as he understood it, was the issue. But what had his colleague moved? The disposition of a thing not before the House—the Message, which the constitution had disposed of, by putting it on the journal; and that was his objection to the ruling of the Chair. While the question on the passage of the bill was pending, it was out of order to take up the Message which was yesterday entered upon the journal, and refer it to a committee. The question was, "Will the House pass this bill?" and the Message was not in the possession of the House, except as a matter of history, to be commented upon.

Mr. UNDERWOOD thought if the House would listen to a little common sense, they would see that the reference of the Message was a constitutional and correct proceeding. He then contended that, if the Executive should return a bill, with the information that certain facts had been discovered, of which Congress had no knowledge when the bill was passed, the House would appoint a committee to ascertain the truth of the statement, and to examine the facts. The Message certainly alleges no discovery of facts, but it contains reasons and matters of opinion; and if they could investigate matters of fact, they could assuredly inquire into matters of opinion, and report on reasoning as well as on facts.

Mr. ADAMS modified his motion, so as to refer the bill, as well as the Message, to a Select Committee.

Mr. WISE took the same line of argument as Mr. CUSHING, relying on the language of the constitution. He asked the Speaker, if to "reconsider" was, in a parliamentary sense, synonymous with the verb to refer, or to commit. The parliamentary law of this House was the constitution, which prescribed the mode of proceeding; but, by its reference to a committee of thirteen, a majority of seven could refuse to report, and thereby indefinitely postpone; which the House had no power to do.

Were gentlemen uneasy lest their weakness should be exposed? Did they desire to drive us to the last day of the session before the question of reconsideration could be taken up, when most of the members would be retiring, in the expectation that the subject was buried? What was the design?—what the aim and object of the motion? He could not discover it. The object of reference, in all cases except such as this, was alteration or amendment. Did the gentleman propose that this bill should be amended? Was that the object of his motion for commitment? No, sir; neither he, nor any man in that House, would undertake to assert that the committee might report an amendment to the bill. What then? Would they refer the President's objections to the Select Committee, with a view to being advised by that com-

mittee whether the bill should be reconsidered? That would not be a reconsideration of the bill, as directed by the constitution. Nor would the House be any nearer to a decision after the committee had made their report, than they were already. The gentleman from Kentucky complained that they should be called on to vote immediately, and (as the gentleman considered) blindfold, upon this bill—ay, blindfold. The gentleman feared he would be forced to vote blindfold upon a subject which they had been considering for eight months. Why, this very bill had been actually, *sub judice*, before Congress for the last three or four months. Would the gentleman admit that he was voting blindfold—that he had not considered the bill?

Mr. FILLMORE said he believed it was agreeable to the practice of Congress to refer all Messages of the President to a committee. But it was contended that this was an exception to the general rule; and upon what ground was that exception urged? Because the constitution requires us to reconsider the bill. He (Mr. F.) did not conceive that the injunction of the constitution was so peremptory. They might debate the bill from day to day, and there was no time specified within which the final vote must be taken. This matter was one of the gravest importance, and one which, it seemed to him, above all others, deserved the serious consideration of a committee. They were bound as well to consider the reasons assigned by the President for rejecting the bill, as they were to reconsider the bill itself.

It was proposed to refer this Message of the President to a large committee, at the head of which would be placed the Father of the House, and a man who once filled the high station of President. Could the friends of the Executive object to this disposition of it? Could they object to a scrutiny of the Message before the country? But it was objected that this committee might not report at all. Certainly, this objection had no weight at all, when it was remembered that the Message only would be referred, and that the bill would still lie on the table.

Mr. F. concluded by moving to lay the appeal on the table; which motion was carried in the affirmative.

The previous question was then put and carried, and the main question ordered to be now put.

Mr. ATHERTON appealed from the decision of the Speaker, that the second of the previous question brought the House to a direct vote on the motion to refer to a Select Committee. He maintained that the previous question cut off the motion to refer, and brought the House to a direct vote upon the reconsideration of the bill and its passage, notwithstanding the objections of the President.

The decision of the Chair was sustained.

Mr. COOPER, of Georgia, raised a similar point of order; but was also overruled.

The question was then taken on the adoption

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of Mr. ADAMS's motion to refer the Message of the President to a Select Committee of 18, and carried in the affirmative, as follows :

YEAS.—Messrs. Adams, Allen, Landaff W. Andrews, Sherlock J. Andrews, Appleton, Arnold, Ayerigg, Babcock, Baker, Barnard, Barton, Birdseye, Blair, Boardman, Borden, Botts, Briggs, Brockway, Bronson, Milton Brown, Jeremiah Brown, Burnell, William Butler, Calhoun, William B. Campbell, Thomas J. Campbell, Caruthers, Casey, Childs, Chittenden, John C. Clark, James Cooper, Cowen, Cranston, Cravens, G. Davis, Jno. Edwards, Everett, Fessenden, Fillmore, A. L. Foster, Gamble, Gentry, Giddings, Goggin, Granger, Green, Hall, Halsted, Howard, Hudson, Joseph R. Ingersoll, James Irvin, James, John P. Kennedy, King, Lane, Linn, McKennan, Thomas F. Marshall, Mathiot, Mattocks, Maxwell, Maynard, Moore, Morgan, Morrow, Owsley, Pearce, Pendleton, Powell, Ramsey, Benjamin Randall, Alexander Randall, Randolph, Rayner, Ridgway, Rodney, William Russell, James M. Russell, Saltonstall, Shepperd, Slade, Sollers, Stanley, Stratton, Alexander H. H. Stuart, John T. Stuart, Summers, Taliaferro, John B. Thompson, Richard W. Thompson, Tillinghast, Toland, Tomlinson, Triplett, Trumbull, Underwood, Wallace, Warren, Washington, Edward D. White, Joseph L. White, Christopher H. Williams, Joseph L. Williams, Yorke, Augustus Young, and John Young—108.

NAYS.—Messrs. Arrington, Atherton, Beeson, Bidlack, Black, Bowne, Boyd, Aaron V. Brown, Charles Brown, Burke, John Campbell, Cary, Chapman, Clifford, Clinton, Coles, Colquitt, Mark A. Cooper, Cushing, Daniel, Richard D. Davis, Dawson, Dean, Doan, Doig, John C. Edwards, Egbert, John G. Floyd, Thomas F. Foster, Gilmer, William O. Goode, Gordon, Gustine, Gwin, Habersham, Harris, Hastings, Hays, Holmes, Houston, Hubard, Hunter, Charles J. Ingersoll, William W. Irwin, Cave Johnson, John W. Jones, Keim, Lewis, Abraham McClellan, Robert McClellan, McKay, McKeon, Mallory, Marchand, McDill, Miller, Mitchell, Newhard, Parmenter, Plumer, Proffit, Reding, Reynolds, Riggs, Rogers, Roosevelt, Sanford, Saunders, Shields, Snyder, Steenrod, Sumter, Sweeney, Jacob Thompson, Turney, Van Buren, Ward, Watterson, Weller, James W. Williams, Wise, and Wood—84.

Mr. COOPER, of Pennsylvania, then moved that the bill be, for the present, laid upon the table.

Mr. WM. COST JOHNSON raised a point of order, whether the motion could be received. He contended that the first question now to be taken was on the passage of the bill, and no motion to lay it on the table could be entertained in order.

The SPEAKER overruled the point of order, and was sustained by the House.

Mr. ATHERTON inquired whether, in case the bill be now laid on the table, it would not require a vote of two-thirds to take it up?

The SPEAKER said no, a majority might take it up.

Mr. GILMER inquired whether, in the event that the bill was laid on the table, it would not be in order to introduce another revenue bill?

The SPEAKER said it would, provided the bill

proposed to be introduced was dissimilar from that returned by the President with his objections.

Mr. GILMER remarked that he should certainly not wish to bring in such a bill as that which had been vetoed.

The question was then taken upon laying the bill upon the table, and decided in the affirmative—ayes 97, noes 78.

THURSDAY, August 11.

#### *The Select Committee on the Veto.*

The following gentlemen compose the Select Committee of thirteen to which the President's Message, returning, with his objections, the tariff bill, has been referred: Messrs. ADAMS of Massachusetts, MORROW of Ohio, GRANGER of New York, TRUMAN SMITH of Connecticut, BOTTS of Virginia, PEARCE of Maryland, RAYNER of North Carolina, JAMES COOPER of Pennsylvania, T. J. CAMPBELL of Tennessee, GILMER of Virginia, W. W. IRWIN of Pennsylvania, ROOSEVELT of New York, and C. J. INGERSOLL of Pennsylvania.

#### *Judicial Circuit Bill.*

Mr. BARNARD moved that the House take up, on its third reading, the bill to amend the act entitled "An act supplementary to the act entitled an act to amend the judicial system of the United States."

The Clerk read the bill a third time, and the question came up on its passage.

Mr. JONES, of Virginia, said he had an amendment which he wished to submit to the bill; and for that purpose he moved to recommit it, with instructions to amend the bill as follows:

That, hereafter, the eastern and western districts of Pennsylvania, and the district of Michigan, shall constitute the third circuit;

The districts of Maryland, Delaware, and New Jersey shall constitute the fourth circuit;

The districts of Virginia, North Carolina, and South Carolina shall constitute the fifth circuit;

The districts of Georgia and Alabama shall constitute the sixth circuit;

The districts of Ohio, Indiana, Illinois, and Missouri shall constitute the seventh circuit;

The districts of Kentucky, East and West Tennessee, and Arkansas shall constitute the eighth circuit; and

The eastern district of Louisiana and the district of Mississippi shall constitute the ninth circuit.

He said he would remark to the House that his object was to avoid what appeared to him to be the greatest possible injustice to the State which he had the honor in part to represent, and to one of the judges of their circuit courts. The object which it was desirable to accomplish, he believed, would be accomplished by his amendment. The advantages of the judicial system would be extended to every part of the Union, and the labor would be equitably distributed amongst the judges; and in the last

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place, as far as was practicable, they would consult the convenience of those on whom those duties would fall. He was aware that gentlemen who had not turned their attention to this subject, would not be able to act understandingly, and to pass upon the amendment which he had deemed it his duty this morning to present, without some time for consideration. He had, therefore, thought it better that the whole subject should be recommitted, whereby an opportunity would be afforded to those who felt an interest in the subject to direct their attention to it, and to judge of the advantages of the scheme which he now proposed. It would be seen that it did injustice to the judge of one circuit; and he proposed so to amend, as in the first place to add to the 4th judicial circuit the State of New Jersey, in the place of the State of Virginia, as the present bill proposes. The present bill proposes entirely to abolish the 5th judicial circuit of Virginia and North Carolina—a circuit, too, which, upon an examination, would be found to be the third, in point of business, in the Union. The business of that circuit, according to a report of 1888-'89, caused a heavier docket than any other circuit in the United States, save two. It would be found, too, that the population of that circuit, which this bill proposed to abolish, was little short of 2,000,000 persons. And it was a circuit, too, highly commercial, and skirting many hundred miles of seaboard, which gave rise to many hundred admiralty cases. There was no one element which constituted a circuit, which the circuit which this bill proposes to abolish did not possess in a degree as great as any other, save two. If population were a necessary element, that circuit had a population little short of two millions; if business were a necessary ingredient, that circuit was the third in the Union; if several hundred miles of seaboard, giving rise to admiralty cases, were an ingredient, then this circuit had that necessary ingredient; and there was no ingredient which applied to any other, that did not apply to this in a greater degree than any other, save two, as he was prepared to show by the petition of the judge on whose application the subject had been brought before the Congress of the United States. It was proposed then to abolish the fifth judicial circuit, and to create a circuit eight hundred miles from the place where the fifth circuit now exists; and the consequence would be, that the judge now residing in that fifth circuit must be transferred from that circuit, which it was proposed to abolish, to that which it was proposed to create, at the sacrifice of all the social ties which bind him, and which have been going on through life—and a transfer from a climate which they knew to be salubrious, to the pestilential atmosphere of New Orleans and Mobile; presenting the alternative of great risk or resignation, which he hoped was not the object of any gentleman. He could not believe that such motives influenced any gentleman of that body; he would not suppose it, because it

would be to suppose that gentlemen were aiming a deadly blow at the independence of the judiciary itself. He could not, therefore, believe it. But such would be the consequences; and if those consequences could be avoided by an equalization of the duties among the judges, which the law devolved upon them, he believed it to be their duty so to equalize the duties amongst those whose duties they were consulting, and at the same time, as far as practicable, the convenience of those judges upon whom the law had cast those duties.

He had already presented to the House the consequences which were to result from the passage of this bill; and the question naturally presented itself to their consideration, whether those consequences might not be averted. He had shown that the circuit was large in territorial extent; that it was large in population, and in its business. He had endeavored, also, to point out to the House the result to the individual whose business it was to perform those duties; and now, if by any arrangement of the circuit, they could accomplish the objects desired, without subjecting any portion of the country, or the judges, to inconvenience, it was desirable that such an object should be accomplished. His amendment, if adopted, would add New Jersey to the 4th circuit, instead of Virginia, as the bill now proposed to place it; and to that amendment he should suppose there would be no objection. That arrangement would be more convenient, and the labor to the judges would be less.

He proposed, in the next place, that the eastern and western districts of Pennsylvania, and the district of Michigan, should be the 8d circuit, instead of including New Jersey in that circuit; which would cause but little, if any, additional duties. He proposed that the 5th circuit should be South Carolina, North Carolina, and Virginia—thus adding South Carolina to the 5th circuit, and adding, of course, very considerably to the duties which the judge would have to perform. To this, however, he (the judge) could not object. It was proposed that Georgia and Alabama should be the 6th circuit—thus giving to Judge Wayne Alabama in the place of South Carolina. The 7th circuit he proposed should be Ohio, Indiana, Illinois, and Missouri. The House would observe that Missouri was added in the place of Michigan; and he was sure this arrangement would meet the approbation of the judge. The 8th district he proposed should consist of Kentucky, eastern and western Tennessee, and Arkansas. Thus, Arkansas would be added to the 8th circuit, and Missouri taken from it. The only remaining district, then, would be the 9th, which he proposed should be composed of Louisiana and Mississippi—taking from the judge Alabama and Arkansas, and leaving to him but two States. To the proposition which he had thus made, he had heard no objection; and he now submitted it to the consideration of the House. It must be obvious to all, that this arrangement



would lessen the duties of the 8th circuit, by distributing them among the other judges; and he was not aware that he could propose any change in a shape more desirable.

Mr. BARNARD said the object of this bill was very simple; whereas the object of the amendment of the gentleman from Virginia (Mr. Jones) was complicated. The necessity had arisen for some partial reorganization of the circuits of the United States, in consequence of the great increase of the business in the extreme southernmost district of the Union, where it had been found impossible that the judge assigned to that judicial circuit could perform its duties. It was physically impossible that the duties of that district could be performed by any one judge. There had been a failure of justice; and it became the Congress of the United States to apply a remedy. This bill had been proposed for the purpose of remedying that evil. In order to do that, without an increase of the number of judges of the United States, (which would itself be an evil, but scarcely less than the existing evils,) the remedy that was absolutely necessary was, to some extent, a reorganization of the circuits, which this bill proposed to do. In order to accomplish this, it was necessary to begin a little to the north—even as far as the 4th circuit; the judge of which (the Chief Justice) had only the States of Delaware and Maryland, and it was the lightest circuit in the United States. It was proposed, without injustice to the judge, to whom that circuit might be assigned under the provisions of this bill, to add to it the State of Virginia; and certainly there could be no objection to that as a public measure. It was certain the Chief Justice did not object, nor would he if he retained that circuit. Having Virginia away, then, from the 5th circuit, it would leave only North Carolina to that circuit; and the question arose, what was to be done with it? The gentleman from Virginia said the circuit was abolished; but surely the gentleman did not mean that any portion of the United States—certainly not that portion of the 5th circuit—was left out of the judicial system. No; but it was proposed to make the 5th circuit to consist of two States different from those of which it formerly consisted; and certainly, as a measure of justice, no one ought to object to that. The remaining State of the 5th circuit, as formerly constituted, was, by this bill, to be added to the 6th circuit—adding thereby no improper burden to the judge to whom it was assigned. Those were the alterations proposed to be made by this bill; they were exceedingly simple, and they accomplished the object in view, which was to extend the judicial system to every part of the Union. The bill also proposed that the judges should adopt amongst themselves the new circuits, at their next sitting. To whom the 5th circuit should fall was to be decided by themselves. Undoubtedly it would be contested between the judge who now resided in it, and the judge

of the 6th circuit. The House well knew that the judge last appointed resided in the State of Virginia, and it might be necessary to move him to Alabama or Louisiana; and was this considered any hardship on any particular judge? or ought they to legislate for the convenience of any particular judge, when the judicial system was being extended to all the people of the United States? He (Mr. B.) apprehended if it were not to consult the convenience of this judge, now residing in Virginia, they would never have heard of this amendment and complaint.

He appealed to the House to say whether an amendment which would incur so much inconvenience and injustice should be adopted.

In order to bring the House to a direct vote upon the bill, he would do what the House would bear him witness he was not accustomed to do; and that was, to move the previous question.

The House sustained the call for the previous question; and the main question having been ordered to be now put—

Mr. J. W. JONES asked for the yeas and nays on the passage of the bill; which were taken, and resulted as follows:

YEAS.—Messrs. Allen, Sherlock J. Andrews, Appleton, Arnold, Arrington, Ayer, Babcock, Baker, Barnard, Bidlack, Birdseye, Blair, Boardman, Borden, Botta, Briggs, Milton Brown, Jeremiah Brown, Burnell, William O. Butler, Calhoun, William B. Campbell, Thomas J. Campbell, Caruthers, Casey, Chapman, Childs, Chittenden, John C. Clark, James Cooper, Cowen, Cranston, Cravens, Cross, Garrett Davis, John Edwards, Fessenden, Fillmore, A. L. Foster, Gamble, Gentry, Giddings, Goggin, Patrick G. Goode, Graham, Granger, Green, Gwin, Habersham, Hall, Halsted, Houston, Howard, Hudson, Charles J. Ingersoll, Joseph R. Ingersoll, William W. Irwin, James, William Cost Johnson, John P. Kennedy, King, Lane, Linn, McKennan, Samson Mason, Mathiot, Mattocks, Maxwell, Maynard, Mitchell, Morgan, Morris, Morrow, Osborne, Owaley, Pearce, Pendleton, Pope, Proffit, Ramsay, Benjamin Randall, Alexander Randall, Randolph, Rayner, Ridgway, Rodney, William Russell, James M. Russell, Saltonstall, Sanford, Saunders, Shields, Truman Smith, Stanly, Stratton, Alexander H. H. Stuart, John T. Stuart, Taliaferro, John B. Thompson, Richard W. Thompson, Jacob Thompson, Tillinghast, Toland, Tomlinson, Triplett, Underwood, Van Rensselaer, Wallace, Warren, Washington, Edward D. White, Joseph L. White, Christopher H. Williams, Augustus Young, and John Young—115.

NAYS.—Messrs. Adams, Atherton, Barton, Beeson, Bowne, Boyd, Brewster, Aaron V. Brown, Charles Brown, Burke, Green W. Caldwell, Patrick C. Caldwell, John Campbell, Cary, Clifford, Clinton, Cole, Colquitt, Mark A. Cooper, Daniel, R. D. Davis, Dean, Doan, John C. Edwards, Egbert, John H. Floyd, William O. Goode, Gordon, Harris, Hays, Holmes, Hopkins, Houck, Hubard, Hunter, Cave Johnson, John W. Jones, Andrew Kennedy, Lewis, Littlefield, Abraham McClellan, Robert McClellan, McKay, McKeon, Mallory, Marchand, Alfred Marshall, Mathews, Medill, Miller, Newhard, Plumer, Reding, Reynolds, Riggs, Rogers, Roosevelt, Snyder, Steenrod, Sweney,

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Reports on the Veto.

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Turney, Van Buren, Watterson, Weller, James W. Williams, and Wood—68.

FRIDAY, August 12.

Several Senate bills were reported from different standing committees, and referred to the Committee of the Whole on the state of the Union.

*Assumption of State Debts.*

Mr. W. COST JOHNSON gave notice that he would, to-morrow, ask leave to introduce a bill to meet all the current and contingent liabilities of the Government, by raising revenue from imports, to benefit the growers of grain and tobacco, by countervailing and reciprocal duties on articles specified—to prevent abuses in the collection and disbursement of the revenue, by requiring the gross amount to be paid at once into the treasury, to be drawn out only by law—to prevent defalcations, by requiring purchasers of public lands, and importers of dutiable goods, to place the amount to be paid the Government in Government depositories, or in the treasury at once, to the credit of the Government, and to receive a receipt of payment from the receivers, upon presentation of the certificate of such deposit—to benefit the States, and increase the capital of the nation, by authorizing the issue, upon the faith of the Government, of two hundred millions of Government stock, of denominations of not less than one hundred, nor exceeding one thousand dollars; to be divided among the States, the Territories, and the District of Columbia, upon the basis of federal numbers—and to suspend the operation of the distribution of the proceeds of the sales of the public lands until the redemption of the stock by the Government.

*Remedial Justice.*

Mr. BARNARD wished to report, from the Judiciary Committee, the bill from the Senate "to provide remedial justice in the courts of the United States."

Mr. J. G. FLOYD objected.

The bill was not reported.

MONDAY, August 15.

*Assumption of State Debts.*

Mr. W. C. JOHNSON, pursuant to notice given a few days ago, asked permission to report a bill, entitled "A bill to meet all the current and contingent liabilities of the Government, by raising revenue from imports; to benefit the growers of grain and tobacco, by countervailing and reciprocal duties on articles specified; to prevent abuses in the collection and disbursement of the revenues, by requiring the gross amount to be paid at once into the treasury, to be drawn out only by law; to prevent defalcations, by requiring purchasers of public lands, and importers of dutiable goods, to place

the amount to be paid the Government in Government depositories, or in the treasury at once, to the credit of the Government, and to receive a receipt of payment from the receivers upon presentation of the certificate of such deposit; to benefit the States and increase the capital of the nation, by authorizing the issue, upon the faith of the Government, of two hundred millions of Government stock, of denominations of not less than one hundred nor exceeding one thousand dollars, to be divided among the States, the Territories, and the District of Columbia, upon the basis of federal numbers; and to suspend the operation of the distribution of the proceeds of the sales of the public lands until the redemption of stock by the Government."

Mr. BARNARD objected.

Mr. WM. COST JOHNSON moved a suspension of the rules for the purpose of permitting him to offer a resolution in the following terms:

*Resolved*, That a Select Committee of — be appointed, with instructions to consider the propriety of reporting the following bill.

Mr. BARNARD objected to the introduction of the resolution.

The question was taken on the motion to suspend; which was negatived almost unanimously.

TUESDAY, August 16.

*Reports on the Veto.*

Mr. ADAMS, from the Select Committee appointed to take into consideration the reasons of the President for refusing his assent to the bill entitled "An act to provide revenue from imports, and to change and modify existing laws imposing duties on imports, and for other purposes," said he was instructed by the majority of the committee to make a report.

Mr. GILMER said he, also, had a report and a protest against the course of the majority of the committee.

Mr. C. J. INGERSOLL likewise signified his intention to make a report.

Mr. ADAMS said he desired to read his report himself.

He then read his report as follows:

The Select Committee, to whom was referred the Message of the President of the United States, returning to this House the act, which originated in it, "to provide revenue from imports, and to change and modify existing laws imposing duties on imports, and for other purposes," with his objections to it, with instructions to report thereon to the House, have attended to that service, and respectfully report:

The Message is the last of a series of Executive measures, the result of which has been to defeat and nullify the whole action of the legislative authority of this Union, upon the most important interests of the nation.

At the accession of the late President Harrison,

by election of the people, to the executive chair, the finances, the revenue, and the credit of the country, were found in a condition so greatly disordered, and so languishing, that the first act of his administration was to call a special session of Congress, to provide a remedy for this distempered state of the great body politic. It was even then a disease of no sudden occurrence, and of no ordinary malignity. Four years before, the immediate predecessor of General Harrison had been constrained to resort to the same expedient—a special session of Congress; the result of which had only proved the first of a succession of palliatives, purchasing momentary relief at the expense of deep-seated disease and aggravated symptoms, growing daily more intense through the whole four years of that administration. It had expended, from year to year, from \$8,000,000 to \$10,000,000 beyond its income; absorbing, in that period, nearly \$10,000,000 pledged for deposits with the States, \$8,000,000 of stock in the Bank of the United States, from \$5,000,000 to \$6,000,000 of trust funds, and as much treasury notes; and was sinking under the weight of its own improvidence and incompetency.

The sentence of a suffering people had commanded a change in the administration, and the contemporaneous elections throughout the Union had placed in both Houses of Congress majorities, the natural exponents of the principles which it was the will of the people should be substituted in the administration of their Government, instead of those which had brought the country to a condition of such wretchedness and shame. There was perfect harmony of principle between the chosen President of the people and this majority, thus constituted in both Houses of Congress; and the first act of his administration was, to call a special session of Congress, for their deliberation and action upon the measures indispensably necessary for relief to the public distress, and to retrieve the prosperity of the great community of the nation.

On the 31st day of May, 1841, within three months after the inauguration of President Harrison, the Congress assembled at his call. But the reins of the executive car were already in other hands. By an inscrutable decree of Providence, the chief of the people's choice, in harmony with whose principles the majorities of both Houses had been constituted, was laid low in death. The President who had called the meeting of Congress, was no longer the President when the Congress met. A successor to the office had assumed the title, with totally different principles, though professing the same at the time of his election, which, far from harmonizing, like those of his immediate predecessor, with the majority of both Houses of Congress, were soon disclosed in diametrical opposition to them.

The first development of this new and most unfortunate condition of the General Government was manifested, by the failure, once and again, of the first great measure intended by Congress to restore the credit of the country, by the establishment of a national bank—a failure caused exclusively by the operation of the veto power by the President. In the spirit of the Constitution of the United States, the executive is not only separated from the legislative power, but made dependent upon, and responsible to it. Until a very recent period of our history, all reference, in either House of

Congress, to the opinions or wishes of the President, relating to any subject in deliberation before them, was regarded as an outrage upon the rights of the deliberative body, among the first of whose duties it is to spurn the influence of the dispenser of patronage and power. Until very recently, it was sufficient greatly to impair the influence of any member to be suspected of personal subservience to the Executive; and any allusion to his wishes, in debate, was deemed a departure not less from decency than from order. An anxious desire to accommodate the action of Congress to the opinions and wishes of Mr. Tyler had led to modifications of the first bill for the establishment of a national bank, presented to him for his approval, widely differing from the opinions entertained of their expediency by the majority of both Houses of Congress; but which failed to obtain that approval for the sake of which they had been reluctantly adopted. A second attempt ensued, under a sense of the indispensable necessity of a fiscal corporation to the revenues and credit of the nation, to prepare an act to which an informal intercourse and communication between a member of the House, charged with the duty of preparing the bill, and the President of the United States himself, might secure, by compliance with his opinions, a pledge in advance of his approval of the bill, when it should be presented to him. That pledge was obtained. The bill was presented to him in the very terms which he had prescribed as necessary to obtain his sanction, and it met the same fate with its predecessor; and it is remarkable, that the reasons assigned for the refusal to approve the second bill are in direct and immediate conflict with those which had been assigned for the refusal to sign the first.

Thus the measure first among those deemed by the Legislature of the Union indispensably necessary for the salvation of its highest interests, and for the restoration of its credit, its honor, its prosperity, was prostrated, defeated, annulled, by the weak and wavering obstinacy of one man, accidentally, and not by the will of the people, invested with that terrible power—as if prophetically described by one of his own chosen ministers, at this day, as “the right to deprive the people of self-government.”

The first consequence of this executive legislation was not only to prostrate the efforts of the Legislature itself, to relieve the people from their distress, to replenish the exhausted treasury, and call forth the resources of the country, to redeem the public faith to the fulfilment of the national engagements, but to leave all the burdens and embarrassments of the public treasury, brought upon it by the improvidence of the preceding Administration, bearing upon the people with aggravated pressure. The fatal error of the preceding Administration had been an excess of expenditure beyond its income. That excess had been an average of eight millions of dollars a year, at least, during the four years of its existence. The practical system of its fiscal operations had been a continued increase of expenditures and diminution of revenues; and it left, as a bequest to its successor, no effective reduction of expenses, but a double reduction of revenue to the amount of millions, to occur, of course, by the mere lapse of time, unless averted, within fifteen months, by subsequent legislation.

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By the double exercise of the Presidential interdict upon the two bills for establishing a national bank, this legislation was prevented. The excess of expenditures beyond the revenue continued and increased. The double reduction of revenue prescribed by the compromise of 1833, was suffered to take its full effect; no reduction of the expenditures had been prescribed; and in the course of eighteen months since the inauguration of President Harrison, an addition of at least fifteen millions to the enormous deficit already existing in the treasury at the close of the last Administration, is now charged upon the prevailing party in Congress, by those who had made it the law: while the exercise of the veto power alone disabled the Legislature itself from the power of applying the only remedy which it was within the competency of legislation itself to provide.

The great purpose for which the special session of Congress had been called was thus defeated by the exercise of the veto power. At the meeting of Congress, at the regular annual session, the majorities of both Houses, not yielding to the discouragement of disappointed hopes and baffled energies, undertook the task of raising, by impost duties, a revenue adequate to the necessities of the treasury, and to the fulfilment of the national obligations.

By the assiduous and unrelenting labors of the committees of both Houses, charged with the duties of providing for the necessities of the revenue, and for the great manufacturing interests of the Northern, Central, and Western States, which must be so deeply affected by any adjustment of a tariff to raise exclusively a revenue adequate to the necessary expenses of the Government from duties on imports, a tariff bill, believed to be nearly, if not wholly, sufficient for that purpose, was elaborated and amply discussed, through a long series of weeks, in both branches of the Legislature. The process of gestation, through which alone such a complicated system could be organized, necessarily consumed many months of time; nor were the committees of the House exempted from severe reproach, which the purchased presses of the Executive Chief are even yet casting upon Congress, without rebuke or restraint from him. The delays were occasioned by the patient and unwearied investigation of the whole subject by the appropriate committees. As the period approached when the so-called compromise tariff was to be consummated, leaving the Government without any revenue tariff sanctioned by the law, the prudence of Congress, without precipitating their decision upon the permanent system which they fondly hoped to establish, provided and sent to the President a temporary expedient, limited in its operation to the space of one month; during which, to avoid, as they thought, the possibility of a collision with the apprehended antipathies of the President, they had suspended for the same month the distribution of the proceeds of the sales of the public lands; which, by a previous law, was to take effect the day after the expiration of the compromise. Not only was this most conciliatory measure contemptuously rejected, but, in total disregard of the avowed opinions of his own Secretary of the Treasury, concurring with those nearly unanimous of all the most eminent lawyers of the land, in solitary reliance upon the hesitating opinion of the Attorney-General, he has undertaken not only to levy taxes to the amount of millions

upon the people, but to prescribe regulations for its collection, and for ascertaining the value of imported merchandise, which the law had, in express terms, reserved for the legislative action of Congress.

And now, to crown this system of continual and unrelenting exercise of executive legislation by the alternate gross abuse of constitutional power, and bold assumption of powers never vested in him by any law, we come to the veto message referred by the House to this committee.

A comparative review of the four several vetoes which, in the course of fifteen months, have suspended the legislation of this Union, combined with that amphibious production, the reasons for approving and signing a bill, and at the same time striking, by judicial construction, at its most important enactment, illustrated by contemporaneous effusions of temper and of sentiment divulged at convivial festivals, and obtruded upon the public eye by the fatal friendship of sycophant private correspondents, and stripped of its naked nature by the repeated and daring assumption both of legislative and of judicial power, would present anomalies of character and conduct rarely seen upon earth. Such an investigation, though strictly within the scope of the instructions embraced in the reference to this committee, would require a voluminous report, which the scantiness of time will not allow, and which may not be necessary for maturing the judgment of the House upon the document now before them.

The reasons assigned by the President for returning to the House of Representatives, with his objections, the bill to provide revenue from imports, and to change and modify existing laws imposing duties, and for other purposes, are preceded by a brief dissertation upon the painful sensations which *any individual* invested with the veto power must feel in exercising it upon important acts of the Legislature. The paragraph is worded with extreme caution, and with obvious intent to avoid the assertion, made in such broad and unqualified terms in the letter read at the Philadelphia Independence-day dinner party, that Congress can enact *no law* without the concurrence of the Executive. There is in this paper a studious effort to save *any individual* from the imputation of asserting the unqualified independence of the Executive upon the Legislature, and the impotence of Congress to enact any law without him. That assertion, made in so explicit and unqualified terms in the Philadelphia letter, is here virtually disclaimed and disavowed. The exercise of *some* independence of judgment, in regard to all acts of legislation, by any individual invested with the veto power, is here curtailed and narrowed down to the mere privilege of not yielding his well-considered, most deeply fixed, and repeatedly declared opinions on matters of great public concernment, to those of a co-ordinate department, without requesting that department seriously to re-examine the subject of their difference. The co-ordinate department to the Legislature is no longer the co-ordinate branch of the Legislature. The power of Congress to enact a law without the co-operation of any individual Executive, is conceded—not merely by unavoidable inference; for the closing paragraph of the message, recurring again to the same troublesome reminiscence, observes that, after all, the effect of what he does is substantially to call on Congress to

reconsider the subject. If, on such reconsideration, a majority of two-thirds of both Houses should be in favor of this measure, it will become a law, notwithstanding his objections. The truism of this remark may, perhaps, be accounted for by the surmise that it was a new discovery, made since the writing of the Philadelphia dinner-party letter; and the modest presumption ascribed to the constitution, that the Executive can commit no error of opinion unless two-thirds of both branches of the Legislature are in conflict with him, is tempered by the amiable assurance that, in that event, he will cheerfully acquiesce in a result which would be precisely the same whether he should acquiesce in it or not. The aptitude of this hypothetical position may be estimated by the calculation of the chances that the contingency which it supposes is within the verge of possibility.

The reasons assigned by the President for his objections to this bill are further preceded by a narrative of his antecedent opinions and communications on the subject of distributing the proceeds of the sales of the public lands. He admits that, at the opening of the extra session, he recommended such a distribution, but he avers that this recommendation was expressly coupled with the condition that the duties on imports should not exceed the rate of twenty per cent., provided by the compromise act of 1833.

Who could imagine that, after this most emphatic *coupling* of the revenue from duties of impost, with revenue from the proceeds of the sales of the public lands, the first and paramount objection of the President to this bill should be, that it unites two subjects which, so far from having any affinity to one another, are wholly incongruous in their character; which two subjects are identically the same with those which *he* had coupled together in his recommendation to Congress at the extra session? If there was no affinity between the parties, why did he join them together? If the union was illegitimate, who was the administering priest of the unhallowed rites? It is objected to this bill, that it is both a revenue and an appropriation bill. What then? Is not the act of September 4, 1841, approved and signed by the President himself, both a revenue and an appropriation bill? Does it not enact that, in the event of an insufficiency of impost duties, not exceeding twenty per centum ad valorem, to defray the current expenses of the Government, the proceeds of the sales of the lands shall be levied as part of the same revenue, and appropriated to the same purposes? The appropriation of the proceeds of the sales of the public lands, to defray the ordinary expenditures of the Government, is believed to be a system of fiscal management unwise, impolitic, improvident, and unjust; and it is precisely for that reason that the bill now before the House provides that they shall not be so appropriated. The public lands are the noble and inappreciable inheritance of the whole nation. The sale of them to individuals is not a tax upon the purchaser, but an exchange of equivalents, scarcely more burdensome to the grantee than if he should receive it as a gratuitous donation. To appropriate the proceeds of the sales to defray the ordinary expenses of the Government, is to waste and destroy the property. This property is held by Congress in trust. Mr. Tyler speaks of the distribution as if it was giving away the property. It is precisely the reverse. It is restoring it to the

owner. To appropriate the proceeds to defray the current expenditures, is to give it up to dilapidation and waste. It is, in political economy, precisely the same as if an individual landholder should sell off, year after year, parcels of his estate, and consume its proceeds in the payment of his household expenses. The first principle of political economy necessary for a nation is to raise, by *taxation*, within the year, the whole sum required for the expenditures of that year. Every departure from this principle is a step in the path of national bankruptcy and ruin. The daily demands of the treasury must be supplied by the income derived from taxation by the year, and not by the dissipation of the common property.

The second reason of the President for objecting to the passage of this bill, is not more ponderous than the first. It is the destitute and embarrassed state of the treasury, and the impolicy, if not unconstitutional, of *giving away* a fruitful source of revenue, which, if retained, may be seized by the Government, and applied to meet its daily wants. But the President had just told us that this fruitful source of revenue was a subject wholly dissimilar in its character from that of revenue raised by duties of impost—so dissimilar, that the union of them formed in his mind an insurmountable objection to the passage of the bill. "I most respectfully submit (says the message) whether this is a time to *give away* the proceeds of the land sales, when the public lands constitute a fund which, of all others, may be made most useful in sustaining the public credit." And how could it be made thus useful? Precisely by *giving them away*. By giving them away forever! For, if the principle be once established, that the proceeds of the sales of the public lands shall be substituted in the place of revenue, by taxation, to defray the ordinary annual expenses of the National Government, never more will the people of any State in this Union have the benefit of one dollar from this richest of mines of inexhaustible wealth, bestowed upon them by their bountiful Creator, for the improvement of their own condition; but *given away*—yes, to the last cent, *given away* forever—to pamper the reckless extravagance of a Government forever preaching retrenchment and economy, and forever heaping million upon million of annual expenditures "to suckle armies and dry-nurse the land."

The committee submit to the House their unhesitating opinion, that the appropriation of any part of the proceeds of the sales of the public lands to the ordinary annual expenditures, would be the only effectual and irretrievable *giving away* of that great and inestimable inheritance of the American people; that, if once that growing and inexhaustible fund shall be doomed to form the whole or any part of the *ways and means* for the annual estimates of the receipts and expenditures of the National Government, the people may bid farewell—a long farewell—to every hope of ever receiving a dollar's useful improvement from that gift of God to them, thus cruelly and perfidiously wrested from their hands.

Nineteen of the States of this Union, in the ardent—perhaps, in some cases, inconsiderately ardent—pursuit of the improvement of their own condition, have become involved—some of them heavily involved—in debt. The greatest portion of this debt has been contracted for the accomplishment of stupendous works, to expedite and facili-

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tate the intercourse of travel and of trade between the remotest extremes of this great Republic, swarming from year to year, with redoubling millions of population. It is no exaggerated estimate of the value of these works to say that, the saving of time, of labor, and of expense, to individual citizens of the Union, enjoying the benefit of those public works, more than repays, in every single year, the whole cost of their construction.

But, while these immense benefits have been thus secured to the people, as a community of individuals, the States which authorized them have contracted a burden of liabilities heavier than they are able to bear. They need the assistance of a friendly and powerful hand; and where should they find it but in the sympathies of the National Government?—in their fidelity to the trust committed to their charge in this immense and almost boundless public domain? The application of the proceeds of the public lands to alleviate the burden of these debts pressing upon the people of almost all the States, is, if not the only, the most unexceptionable mode of extending the mighty arm of the Union to relieve the people of the States from the pressure of the burden bearing upon them—a relief consisting only of the distribution among them of their own property—a relief furnishing them the means of paying to the United States themselves no inconsiderable portion of the debts due from the States to them; so that, by one and the same operation, the people of the States will be relieved from the intolerable pressure of their debt, and the common treasury of the Union will receive back in payment of debt no small part of the same sums allotted to the States as their respective portions of the distribution.

The committee regret that the shortness of the time which they have allowed themselves for the preparation of this report constrains them to pass over numerous other considerations, amounting to the clearest demonstration, that the distribution among the States of the proceeds of the sales of the public lands, will be infinitely more conducive to the ends of justice, and to the relief of the people from their embarrassments, than the devotion of the same funds to be swallowed up in the insatiate gulf of the ordinary annual expenses of the Federal Government; to perish, in the using, like the nine millions of the fourth instalment promised to the States, the seven or eight millions of stock in the Bank of the United States, and the five or six millions of Indian trust and navy pension funds—all sunk, during the Van Buren Administration, without leaving a wreck behind.

This review of the reasons of the President for objecting to the passage of the bill might be extended far more into detail, and all leading to the conclusion that they are feeble, inconsistent, and unsatisfactory. It remains only for the House to take, by yeas and nays, the question upon the final passage of the bill; and as the majority of the committee cannot indulge, even hypothetically, the absurd hope of a majority, either in this or the other House of Congress, competent to the enactment of the bill into a law, they leave the House to determine what further measure they may deem necessary and practicable, by the legislative authority, in the present calamitous condition of the country.

They perceive that the whole legislative power of the Union has been, for the last fifteen months,

with regard to the action of Congress upon measures of vital importance, in a state of suspended animation, strangled by the five times repeated stricture of the executive cord. They observe that, under these unexampled obstructions to the exercise of their high and legitimate duties, they have hitherto preserved the most respectful forbearance towards the Executive chief; that while he has, time after time, annulled, by the mere act of his will, their commission from the people to enact laws for the common welfare, they have forborne even the expression of their resentment for these multiplied insults and injuries. They believed they had a high destiny to fulfil, by administering to the people, in the form of law, remedies for the sufferings which they had too long endured. The will of one man has frustrated all their labors, and prostrated all their powers. The majority of the committee believe that the case has occurred in the annals of our Union, contemplated by the founders of the constitution, by the grant to the House of Representatives of the power to impeach the President of the United States; but they are aware that the resort to that expedient might, in the present condition of public affairs, prove abortive. They see that the irreconcilable difference of opinion and of action between the legislative and executive departments of the Government is but sympathetic with the same discordant views and feelings among the people. To them alone the final issue of the struggle must be left. In the sorrow and mortification under the failure of all their labors to redeem the honor and prosperity of their country, it is a cheering consolation to them that the termination of their own official existence is at hand; that they are even now about to return to receive the sentence of their constituents upon themselves; that the legislative power of the Union, crippled and disabled as it may now be, is about to pass, renovated and revived by the will of the people, into other hands, upon whom will devolve the task of providing that remedy for the public distempers which their own honest and agonizing energies have in vain endeavored to supply.

The power of the present Congress to enact laws essential to the welfare of the people, has been struck with apoplexy by the Executive hand. Submission to his will, is the only condition upon which he will permit them to act. For the enactment of a measure earnestly recommended by himself, he forbids their action, unless coupled with a condition declared by himself to be on a subject so totally different, that he will not suffer them to be coupled in the same law. With that condition, Congress cannot comply. In this state of things he has assumed, as the committee fully believe, the exercise of the whole legislative power to himself, and is levying millions of money upon the people, without any authority of law. But the final decision of this question depends neither upon legislative nor executive, but upon judicial authority; nor can the final decision of the Supreme Court upon it be pronounced before the close of the present Congress. In the mean time, the abusive exercise of the constitutional power of the President to arrest the action of Congress upon measures vital to the welfare of the people, has wrought conviction upon the minds of a majority of the committee, that the veto power itself must be restrained and modified, by an amendment of the constitution it-

self; a resolution for which they accordingly here-  
with respectfully report.

JOHN QUINCY ADAMS.  
JOHN M. BOTTS.  
JAMES COOPER.  
K. RAYNER.  
THOMAS J. CAMPBELL.  
TRUMAN SMITH.  
F. GRANGER.  
H. S. LANE.  
JEREMIAH MORROW.  
J. A. PEARCE.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of both Houses concurring therein,) That the following amendment of the Constitution of the United States, in the seventh section of the first article, be recommended to the Legislatures of the several States, which, on the adoption of the same by three-fourths of the said Legislatures, shall become part and parcel of the constitution.*

Instead of the words "two-thirds," twice repeated in the second paragraph of the said seventh section, substitute, in both cases, the words "a majority of the whole number."

Mr. GILMER rose to present a report from a minority of the committee.

Mr. ADAMS was understood to inquire whether reports were made by the minority of the committee.

The SPEAKER replied in the affirmative.

Mr. PROFFIT rose to a point of order. The gentleman from Virginia had the floor; and he objected, therefore, to any motion from the gentleman from Massachusetts.

The SPEAKER replied that the gentleman from Massachusetts had the floor.

Objections were made by several gentlemen, who alleged that the gentleman from Virginia (Mr. GILMER) had been recognized by the Chair.

Mr. ADAMS, however, proceeded; and moved that the three reports be printed; and that the resolution which he had reported from the majority of the committee be made the special order for to-morrow at 12 o'clock.

Mr. RAYNER moved the previous question. [Murmurs of dissatisfaction.]

Mr. W. O. JOHNSON rose to a question of order; which was, that, according to the constitution, the first matter which the House would have to dispose of would be the bill now on the table; and, therefore, he submitted that the motion of the gentleman from Massachusetts (Mr. ADAMS) was not in order, and ought not to have precedence over the bill itself.

The SPEAKER explained that he had not decided the motion to be carried, but as merely before the House.

Mr. GILMER (who still retained the floor) was loudly called upon to read his report, and he accordingly read the following:

*Protest and Counter Report of THOMAS W. GILMER, one of the minority of the Select Committee on the objections of the President to a bill to provide revenue, &c.*

The undersigned, a member of the Select Com-

mittee to whom the objections of the President to the bill entitled "A bill to provide revenue from imports, and to change and modify existing laws imposing duties on imports, and for other purposes," were referred, being unable to concur in the views of the majority of the committee, would assign some of the reasons which have influenced him in coming to a different conclusion. He cannot refrain from inquiring for what purposes this committee has been raised, and protesting against the unprecedented and extraordinary course which a majority of the House of Representatives have determined to pursue on this occasion—a course certainly opposed to all the established usages of our Government; and, as the undersigned believes, in conflict with the provisions of the constitution. The language of the constitution is as follows: "Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; if he approve, he shall sign it; but, if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered; and if approved by two-thirds of that House, it shall become a law."

The bill in question, having passed both Houses, was sent to the President, by whom it was returned to the House of Representatives, where it originated. Instead of proceeding (as the constitution directs) "to reconsider it," the bill is laid on the table, and the President's objections are referred to a select committee. In ordinary parliamentary proceedings, where a bill has passed either House of Congress, and a motion is made to reconsider the same, pending such motion, the bill itself (having once passed) is not before that House for any general purpose, and can only be brought again within the power of the House by a reconsideration of the vote on its passage. A motion, therefore, to commit, to postpone, or to lay such bill on the table, could not attain its object, and therefore could not be made. In this case, the bill had passed both Houses, and could not again come under the action of either, except by the express provision of the constitution. That provision is mandatory and explicit. It prescribes the only legislative action which can take place on the President's objections and the bill. The House is directed "to enter the objections at large on their journal, and proceed to reconsider it," (the bill.) The question of reconsideration, therefore, is raised by the constitution. It is a reconsideration of the bill—not merely of the vote on its passage; it is the only question which is raised in reference to the bill, and it is one which the House is not at liberty to evade or suppress. The objections which the constitution requires the President, if he does not approve, to assign, do no more than suspend the bill, which, without them, would become a law; and which, notwithstanding them, may become a law, if, on the reconsideration, which is not only permitted, but prescribed, it is "approved by two-thirds." The constitution, therefore, clearly contemplates that when a bill is returned with objections by the President, it shall be subjected to the test of another vote. The importance attached to this requisition

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by the wise and patriotic framers of the constitution, may be inferred from the provision that "in all such cases, the votes in both Houses shall be determined by yeas and nays." If the Federal Executive had been invested with an absolute, instead of a qualified veto, there would have been no necessity for these precautions, to insure a vote on the reconsideration. Congress are no more at liberty to fail or refuse to reconsider the bill returned with objections, than the President would be to decline to approve or return it with his objections. The bill cannot be altered, in any respect, by one or both Houses. The House to which it is returned is not at liberty to separate the objections from the bill. They are to be entered on its journal, and the bill—if two-thirds shall pass it—is to be sent, "together with the objections, to the other House." Before any bill can become a law, it must be "presented to the President." If he approve, it is a law. If he return it, he is bound to state his objections; and Congress are not permitted to convert the qualified power of the Executive to subject the bill to another direct vote on the yeas and nays, into an unqualified and absolute veto, as they may effectually do by refusing to proceed to the reconsideration, or by silently acquiescing in the President's objections without another vote. The objections of a President operate as a check on the unconstitutional or inconsiderate legislation of a mere majority in the first instance; and two-thirds, on the reconsideration, are as effectual a check on the veto.

Under the constitution, "each House may determine the rules of its proceedings;" but in this particular case, the constitution itself has determined the rule of proceeding. The question, then, is, whether that rule is paramount or inflexible; or whether, like ordinary rules, it can be modified, suspended, or abrogated. Does the reconsideration enjoined by the constitution give the House a more extensive power over the bill than it had under its own rules after its passage? It is not denied that the reconsideration involves the merits of the bill, as well as the force of the Executive objections; nor that deliberation and discussion are essential. It is maintained, however, that the action of the House is prescribed, and that it is limited to a single object—and that is the reconsideration of the bill as it passed both Houses, and as it was returned from the Executive with his objections. If it can be laid on the table, or postponed, or committed, it may be withdrawn from the reconsideration of the House by the vote of a mere majority. That same majority may refuse to take it up again, and thus prevent a vote on the reconsideration. In this instance, a majority have laid the bill on the table, and have refused to take it up. It depends on the will of that majority whether it shall be taken up and reconsidered at all. They have then claimed, and by force of numbers exercised, an authority which may altogether disregard and dispense with the positive requisition of the constitution. They have separated the bill from the objections. The former may, or it may not, be brought to a direct vote on its merits with the yeas and nays. It may be expedient for the bare majority of four, by which it originally passed, to permit this bill to slumber forever, under the indirect vote to lay on the table—a vote which does not involve the merits of the bill, nor meet the requisitions of the constitution. The power to lay on the table, is a power which can also commit to a select or standing committee, or to a

committee of the whole, where the yeas and nays cannot be had, or which can postpone indefinitely beyond the session. The power assumed in these different modes is the same. It is the power to control the constitution by arbitrary rules, and by the party vote of a bare majority of one House of Congress. The message containing the President's objections has been referred to this committee. The power of the committee does not extend beyond the subject referred. Reasons or recommendations may be reported, in answer or in connection with the objections; but it is not competent for this, or any other committee, constitutionally to report any measure which will obstruct the reconsideration of the bill. The committee can, then, neither suggest nor accomplish any practical object of legislation, consistent with the constitution. They cannot report an original bill, or any amendment to the bill now on the table. They may recommend an impeachment or a censure of the President, but if this recommendation assumes the form of a resolution, the question in the House is on the report of the committee, and not on the bill. As two questions cannot be voted on at once, this question must either supersede the reconsideration of the bill, or it must interpose a new question, not contemplated by the constitution.

It is not maintained that the consideration enjoined by the constitution precludes discussion in any form; but that the reconsideration of the bill, with the objections, is imperative, and that it is not within the legitimate power of Congress, by any sort of parliamentary device, to avoid it, or to alter or modify the direct question presented by the constitution, by qualifying or connecting it with any other extraneous question. If it be true, then, that this committee can report no measure to the House affecting the bill which the House is required to reconsider, nothing remains which they can do, but to present, in the shape of a report, arguments which could be as well, if not better, presented in debate. This is the most innocent design which can be imputed to this movement. It is to embody in a more imposing form, and to present from a new point of attack, principles and prejudices which have always been hostile to the true spirit of the constitution. Under the specious pretext of defending Congress from what is imagined to be an attack on their constitutional rights, it is sought to strip the other departments of Government of powers which the constitution has confided to them; to remove every constitutional obstruction to the arbitrary will of Congress; to destroy the equilibrium of our well-considered system of government; and to assume unlimited jurisdiction, not only over the co-ordinate branches, but over the States and the people. Encouraged by the present embarrassed condition of the country and our public affairs, deriving fresh political hopes from the general gloom and despondency which their own proceedings have cast over the Union, it is attempted to extort from the sufferings of the people some sanction for principles of government which their judgment has never failed to repudiate. The history of our Government abounds in examples of conflicts between the several departments. It has sometimes happened that all the departments combined to overthrow the constitution, and, but for the intelligence of the people, and the controlling power of the suffrage, in restoring the supremacy of the Constitution over the Legislature, the Executive, and the Judiciary, such combinations must have been fatal to our in-



stitutions. While it is the privilege and the duty of every citizen to arraign either department of the Government, or any public officer, for infidelity to the constitution and the laws, it is neither wise, just, nor patriotic, for one of those departments to impair the confidence or the harmony which should subsist between the separate branches of the public service, by fomenting prejudices and discord. They are all agents of the people. Their duties are prescribed by a law which all acknowledge as supreme.

Without inquiring into the motives which induced the framers of the constitution to distribute the powers of our Government as they have done, and to confer the particular power in question on the Executive; and without reviewing the actual experience of the Government, as to what (from a supposed analogy, not at all obvious, to certain powers in other Governments) is commonly called the veto power, it is natural that the mind should approve or condemn the exercise of this power, according to its interests, opinions, or prejudices on the subject to which it is applied. This is true, not only as to this, but as to all other powers of Government. Zeal in the pursuit of some cherished object of interest or ambition induces some men not only to complain when they are thwarted by what they easily believe to be an improper exercise of power, but to make war on the established forms of government, and to seek, by revolution or radical change, what they cannot lawfully obtain. The disposition, which has been recently manifested to some extent, to disturb the well-adjusted checks of the constitution, by claiming powers for Congress which that instrument does not confer, or by denying to a co-ordinate branch of Government powers which it does confer, in order to establish a particular system of party policy, or to carry an election, must be regarded with deep regret and serious apprehension by the people—those whose province it is to judge, and who, free from the bias of mere party politics, can think and feel and act under the superior influences of patriotism. Our Government has survived the shock of many severe political contests, because hitherto these contests have involved only a difference of opinion as to the principles and policy of the Government, as organized. It has been deemed unwise, as well as dangerous, to exasperate local or general prejudices against the acknowledged forms of the Government, and to enlist the spirit of revolution as an auxiliary to the spirit of party.

It has been lately proposed to abolish the powers resulting to the Executive from the clause of the constitution already cited. There is no evidence of any disposition to second this purpose, either on the part of Congress itself, or on the part of the States. Despairing of any peaceful change, it is now proclaimed that this power is so dangerous to liberty as to justify an appeal to arms. This is urged by those who desire to secure the enactment of measures believed probably by a majority of the people of the United States, and certainly by the present Executive, to be either unconstitutional, or grossly inexpedient and injurious. To obtain the charter for a national bank, when there are few bold enough to believe that any prudent man would hazard his capital or his confidence under the charter, or still further to impoverish an already empty and indebted treasury, it is proposed to abolish, by amending the constitution, or

by revolution, one of the checks by which the Executive Department is authorized to arrest the unconstitutional measures of Congress. A double innovation is meditated against the constitution, and violence is invoked to annul one of its Executive barriers, because it is an obstacle to the encroachments of the Legislature. If the veto power, as it is called, were abolished in the Executive, it would remain in the Judiciary; unconstitutional legislation might still be arrested there, and it would not be in the power of two-thirds to control the decisions of the Supreme Court. Hence it is, perhaps, that distrust has been recently so emphatically expressed as to the competency of that court to decide on questions which have unfortunately arisen as to the authority of the Government to collect any revenue since the 80th of June last. The objects of those who believe that certain measures of party policy are of more consequence than the present organization of our Government, can only be partially accomplished by abrogating the veto of the Executive. There remains, besides the veto of the Judiciary, the veto of the people. All the powers of our Government, into whatever hands they may be distributed, must be exercised under responsibility to the laws and to popular opinion. When a President returns a bill to either House of Congress, with his objections, he is responsible to the law, to all its penalties, and, like every Representative of a State or a district, he is responsible also to the people. These are the great checks of our system; and they are serving the most important end for which they have been established, when they restrain the licentious ambition which is chafed only by constitutions, by laws, or by the popular will.

For the first time in the history of our institutions, they are exposed to a novel experiment. It is, nevertheless, one contemplated by the constitution. It is to be tried under very peculiar circumstances. It remains to be seen whether a Vice President, called, in the regular order of events, to the chief executive office, can administer the Government without a party pledged in advance to approve or to oppose his administration; or, in other words, whether the vigor and security of our Government abide in the constitution and laws, or in a mere party. With regard to the constitutional convictions of the present incumbent of the executive office, on some of the subjects to which they have been applied, it is undoubtedly true that they were known to those by whom he was nominated and elected to the second office of the Government, and by many of whom he is now bitterly denounced for being what they, in the election, proclaimed him to be. With regard to the exercise of the veto power in this instance, a recurrence to a few facts of public notoriety and recent date will enable an impartial public to decide.

Before the death of the late President, his proclamation had issued, convening Congress in extra session. The necessity for this was alleged to exist in the state of our finances. Congress assembled on the 31st of May, 1841. It has been in session, with the interval of rather more than two months, ever since. Various expedients were resorted to, during the extra session, to enable the Government to meet its engagements and defray its ordinary current expenses. Since that period, the pay of the army, the navy, and the civil list, has been frequently suspended, from the utter

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destitution of the treasury. Loans authorized by Congress have failed to be negotiated on any terms. Treasury notes of Government have depreciated, and been returned by the needy public creditor under protest. Every device to sustain the sinking credit of the Government, short of a direct tax, has failed; and this, at a period when our foreign relations were eminently precarious.

The distribution of the proceeds of the public lands from the treasury of the United States to the treasury of the States, was among the earliest measures urged at the extra session. A loan for \$12,000,000 had been authorized for the relief of the national treasury, but not negotiated, when a bill distributing the proceeds of the public lands passed both Houses of Congress, and, with the approbation of the Executive, became a law. It contained a clause, without which it could never have obtained either the legislative or the executive sanction, providing, in view of the embarrassed condition of the treasury, that, whenever the duties on any article of foreign importation exceeded 20 per cent., the distribution to the States should cease, and the proceeds of the lands should again be applied to pay the debts and defray the expenses of the Federal Government. A revenue bill also passed at the extra session, raising the duties on most articles which were free under the compromise of 1833 to 20 per cent. This bill was framed with the design to avoid any conflict with the 20 per cent. principle of the compromise of 1833, or with the 20 per cent. condition in the distribution act.

At the commencement of the present session, the President, in his annual message, apprised Congress that there would be a deficit in the treasury on the 1st of January, 1842, of \$627,557 90. At a subsequent period of this session, he urged on Congress, in a special message, the inability of the treasury to meet the demand created against it by appropriations which Congress had made, the necessity of providing adequate means to sustain the Government by an increase of duties on imports, and every other means within their power. He also recommended the repeal of the distribution act, and a pledge of the land fund for the redemption of the public debt. Though less than half of the \$12,000,000 loan authorized by the act of 1841 had been taken, and though Congress found itself under the necessity, at an early period of the session, of authorizing an issue of \$5,000,000 of treasury notes, in addition to the loan of \$12,000,000; yet no revenue bill was reported until the 3d day of June, 1842, after Congress had been in session six months, and when the country was looking anxiously for an adjournment. Congress had gone on meanwhile to appropriate many millions of dollars, which the Government did not possess, and which it could not obtain without the agency of the Legislative Department. The revenue bill was reported on the 8d of June, and taken up, for the first time, in Committee of the Whole, on the 8th of June.

The final reduction of duties to 20 per cent. under the compromise of 1833, was to take effect on the 30th of June; and then the distribution under the act of 1841 was to commence, provided the duties were not raised beyond 20 per cent. On the 7th of June, the Committee of Ways and Means, which had reported the revenue bill on the 8d, brought in what was called a provisional bill, the

ostensible object of which was to provide for a temporary collection of duties, until time could be afforded for the passage of the general revenue bill. The necessity for some such measure was alleged to exist, on account of a doubt whether duties could be collected after the 30th of June, without additional legislation. The revenue bill provided for a general increase of duties beyond 20 per cent., and its passage would necessarily have enforced the suspending clause of the distribution act. The provisional bill reported on the 7th of June, contained no reference to this suspending clause of the distribution act. A second provisional bill was reported from the Committee of Ways and Means, with the same general objects as the first, which had been reported only two days before, and with a proviso repealing the suspending clause of the distribution act. The first provisional bill was never considered. The second was passed by the House on the 15th June, went to the Senate, returned with amendments, which were concurred in on the 25th of June, and was returned by the President, with objections, on the 29th of June. These objections were founded on the deplorable condition of the treasury, and on the expediency of adhering, under the circumstances, to the terms on which distribution had been authorized by the act of 1841. The revenue bill did not pass until the 5th of August. It was returned, with the President's objections, on the 9th.

These objections are now before the committee. They are substantially the same as those which accompanied the provisional bill the 29th of June. The revenue bill contained a clause most unequivocally repealing the suspension of the distribution act, which its own passage would have enforced; and thus it was, in effect, the enactment of a new distribution law, appended to the revenue bill.

Each House deliberately refused to strike out this clause, and persisted in associating, in ludicrous contrast, two measures—the one, an act to raise money for the support of Government by the imposition of taxes; the other to distribute the land revenues to the States. The majority of both Houses had proclaimed, with the concurrence of the President, in September 1841, that distribution should only be made when the duties were below 20 per cent. The majority of both Houses had again and again proclaimed, in 1842, the necessity of raising the duties above 20 per cent., and yet insisted on distributing the land fund, without regard to the conditions they themselves had so recently prescribed—without regard to the situation of the treasury—and without regard to the burdens which might be imposed on the people. They might have attempted to raise revenue from imposts, and to distribute the land fund, in separate bills. Then each measure would have rested on its own intrinsic merits. But they persisted in connecting them in one bill. The restriction in the distribution act of 1841 was designed to guard against increasing the burdens of taxation, to fill a vacuum which might be occasioned by distribution. The legislation of 1842 is designed to create a vacuum, that it may be filled by increased taxation. There is probably no precedent in the history of any Government, for the union, under such circumstances, of a revenue and an appropriation bill. As there was no necessity for such union apparent to the public, we are at liberty to infer that it resulted from a consciousness that one or both the measures

could not have separately commanded a majority. The exigencies of the national treasury were supposed to furnish a favorable opportunity for Congress to extort terms on which alone the Government should be supplied with revenue to meet their own appropriations. It would have been as proper, under the circumstances, for Congress to annex a charter for a bank, or a fiscal agent, or a fiscal corporation, as a condition precedent to a revenue bill; and to raise an issue with the President or with their constituents, if such a bill had not received the Executive sanction.

It is a great mistake to suppose that this is an issue between the majority of Congress and the President. There is an issue between this same majority in 1841 and 1842. The President abides by terms which this majority prescribed for themselves and the treasury in 1841, and they can prefer no accusation against him for adhering to their own position. He might, with more propriety, upbraid them for abandoning it. The issue is between this majority and the country. They who arraign the President for obstructing the will of Congress, should be well assured that Congress does not obstruct the will of the States and the people it represents. Congress is neither infallible nor irresponsible. If this were a question in which none felt any interest besides the President of the United States and the members of Congress, there might be some plausibility in the attempt to narrow the issue to them; but the subject of revenue is one in which those who pay, are apt to feel as deep an interest as those who levy taxes. Every citizen of the United States, moreover, feels a solicitude in the Government, and all that concerns it; in the fundamental principles on which it is based; in the measures which characterize its administration; in its justice, its faith, and its fame; and the judgment of no impartial man can be blinded or biased by the effort to conceal the true points of this issue, under cover of a petty political altercation between a party majority in Congress and the President.

Has the President either assumed a power which does not belong to his office, or has he abused a power which does belong to it? It has not been denied that the power in question exists under the constitution. Indeed, it has been proposed to abolish it by amendment. If it has been abused, it was done either corruptly and wantonly, or under an error of Executive judgment. If there is evidence of the least corruption in the President's conduct, he should be impeached. The power of impeachment has been confined to the House of Representatives. It is the duty, therefore, of the majority, who accuse the President, to arraign him under articles of impeachment before the Senate, if they believe him to be guilty of any impeachable offence. If he has neither assumed power, nor abused it corruptly, then the issue dwindles to a mere question—who is right as to a measure of policy? If the undersigned were allowed, by the circumstances which compel him to omit many considerations very proper to the subject, he would not despair of showing that, independent of all the extraneous prejudices and political feelings which the advocates of error on this occasion endeavor to bring to their aid, the mere *opinion* of the Executive in this case is right, and the mere *opinion* of Congress is wrong. The narrative of legislation on the subject of revenue, at the late extra session, and since December last, which has been given,

will furnish the facts from which, without explanation or argument, the country will be enabled to judge whether the majority in Congress or the President have erred in matters of opinion. The occasion is both too novel and too grave to permit an argument on such minor questions, affecting the comparative taste or wisdom of the majority of Congress and the President. As the mere question of opinion, however, the President should not be condemned, without some charity by those who concurred with him so recently as September, 1841. If the charge preferred by this majority is understood, it involves no breach of the constitution, or of any law on the part of the President; but they accuse him of obstructing *their* will. The accusation implies either a general infallibility on the part of the accusers, or a particular exemption from error on this occasion; or it denies to the President the right and the responsibility of judging on a subject which Congress submitted to his judgment. They will find that there are two sides to this question. The Executive is a co-ordinate department of the Government. The President is under no obligation implicitly to approve every bill which the Legislature may pass. He is commanded either to approve, or, if he cannot approve, to return, with objections, *all bills* sent to him; and Congress are required to send to him *all bills* which they pass. It is alleged, however, as a complaint, that the President has thought proper to exercise his constitutional discretion, and withheld his approbation from other bills which Congress have passed. Still, the question of power and the question of duty on his part, and on the part of Congress, is the same in each instance. Can Congress excuse themselves for refusing to provide revenue for the Government, because the President did not approve either of the forms in which, at the extra session, they attempted to charter a Bank of the United States? Is the issue, which has been so solemnly proclaimed on this occasion, to embrace the long-agitated question of currency, besides that of revenue? Do the majority mean to declare that they will permit no revenue to be collected (or, in other words, that the Government shall cease) unless two conditions are submitted to: first, the charter of a bank in some form; and, second, the distribution of the land fund? If this be the object, then these questions should have been all connected in one bill. It has been deemed prudent, however, to connect only two of them. The questions of distributing the land fund, and of raising revenue for the support of Government, were united in such a manner as to leave it doubtful whether the majority of Congress considered themselves bound to provide revenue first for the States, or for the United States. Since they insisted on uniting them in a second bill, after a former bill had been vetoed on account of their union; and since it is now declared that Congress is disgraced if it recedes so far as to separate the question; and that the United States Government shall have no revenue, unless the land fund is distributed to the States, there can no longer be a doubt of the determination, either to bestow the ways and means of the Federal treasury on the State treasuries, or to starve the Government of the United States. The majority seem not only resolved on this, but they are resolved to accomplish their object only in one particular mode—and that is, by legislating on the two subjects in the same bill.

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What, then, is the issue? It is not whether the power exercised by the President is a lawful power. Its existence is conceded by the proposition to abolish it. It is not whether that power has been corruptly abused. If this is believed, the majority are guilty of culpable neglect of duty in not impeaching. It is not whether the States shall have the land fund; it is not whether the United States shall have a revenue; but it is whether this Government shall have revenue, and the States shall have the land fund in a particular form of legislation, which Congress have resolved, at all hazards, to persevere in—a form of legislation resorted to, first, to coerce the votes of Congress, and persisted in to coerce the Executive by putting the treasury under duress.

As the majority of Congress seem to view this question, it is a mere parliamentary punctilio, on which some of them would rouse the country to arms. In other aspects, however, in which it will be viewed by those who, in this case, are more impartial arbiters than either this majority or the President, it is a question worthy of the most serious consideration. The Government has now no revenue. It is in debt; it is completely organized under the forms of the constitution; its Legislature, its Judiciary, its Executive, are at their posts; its army is in the field; its navy is on the sea; its representatives are honorably accredited by all foreign Governments as the representatives of foreign Governments are here. There is profound peace, and a general sense of security throughout the country. Our fields are teeming with abundant harvests. Industry and economy are gradually repairing the evils of extravagance and indolence, and, as they develop our great national resources, they are restoring a general confidence, which will revive prosperity, and teach us (for a time, at least) the danger of preferring again artificial wealth and delusive splendor to real independence and substantial comfort. With the means of individual happiness and national glory within our reach, the people of the United States may well ask why it is that the constitution has failed—why the laws are impotent—and why the Representatives of twenty-six States, and seventeen millions of people, are unable to provide revenue to save the Government from disgrace and dissolution. A majority of these Representatives have given the answer. It is because they do not choose to do what they have the power to do. They forget their duty to the country and the constitution, and remember only the imaginary resentments which they suppose to exist between themselves and the President of the United States. If these resentments were real, will the country tolerate a suspension of the entire Government until a political dispute is settled, by revolution or reason, between those who ought to feel on both sides a weight of official responsibility which permits no motive of ambition or animosity to inflict on their country the consequences of their passion? Whence can such resentments arise, unless from motives of ambition equally unworthy of a President and a legislator? If the majority in Congress wish to submit an issue to the country involving any policy of Government, any question of constitutional liberty or legislative expediency, let them not present it in the shape of a mere controversy between themselves and the President; let them invoke the

judgment, and not merely the prejudices, of their countrymen to decide it.

It too often happens that a party attempts to prescribe law for the constitution, and to interpolate substantive restrictions or enlargements of the powers to be derived from the text. Necessity or expediency is always the pretext. The first necessity and the soundest expediency in a Government of a written constitution, is to preserve its organic law inviolate. That instrument may be as effectually changed (and the Government is changed with it) by this means, as by an amendment in the prescribed mode. The constitution is designed to furnish a permanent, uniform, and universal rule of government, while parties fluctuate and change with the caprices of passion or the convictions of judgment. These decisions of mere party are too apt to be regarded as authority; and hence the conflict which frequently occurs between them and the constitution itself. The undersigned has already expressed his conviction that the proceedings in this case are in conflict with the constitution. It is to be regretted that it is not the only evidence of a disposition, during the present Congress, to disregard the authority of that instrument, or to create unnecessary collisions between the Legislative and the Executive Departments. When a subject distinctly embraced in one bill has been the cause of the Executive objections to that bill, respect for the opinion of a co-ordinate department, or desire to avoid unnecessary collisions with it, would suggest the propriety of not immediately pressing that identical subject upon the consideration of the Executive, without some intimation of a change of opinion. The objections of the President to the provisional revenue bill, and the general revenue bill, are the same. They relate to the insertion of a clause directing distribution of the land fund without regard to the rates of duties on imports. The first bill was temporary in its duration, and comparatively unimportant in its objects. It was sent to the President in advance of the second, and only five days prior to the 30th of June, when it was alleged there would no longer be authority to collect revenue. It contained a clause in relation to the distribution of the land fund. It was vetoed on account of that clause. On the 5th of August, Congress passed the second or general revenue bill, containing a clause still more unequivocally authorizing distribution, notwithstanding the 20 per cent. restriction of the act of 1841. Whether the first of these bills was designed only to feel the way for the second, and to ascertain if the President could be brought to the dilemma, after objecting to that bill, of either vetoing a revenue bill, or submitting to the distribution clause, in order to obtain the means of carrying on the Government, or to re-enact, by the vote of a majority, a single principle which had been so recently vetoed, and which could not obtain the vote of two-thirds, it is a part of the history of these proceedings which may shed some light on our examination. The legislation of Congress, at the late extra session, on the subject of the bank and its various modifications, illustrates the same disposition. Two bills, under different titles, but both for the object of chartering a national bank, were successively passed, sent to the Executive, and were returned with objections. If, then, there has been a dispo-

sition on the part of the Executive to resist the action of Congress on certain subjects, there has certainly been a corresponding disposition on the part of Congress to attack, and to repeat the attacks, on the Executive.

Congress have appropriated the money required to carry on the Government. They have authorized the debts which are contracted. They alone, under the constitution, can furnish means of meeting their own appropriations. It is not in the power of the minority of Congress to legislate. All that the Executive can do is to convene Congress, should it adjourn without providing revenue to carry on the Government. It is hoped, however, that calmer consideration will inspire some motive of public duty stronger than any feelings of party resentment. The threats of violence which have been heard from quarters whence better counsels should have proceeded, will not disturb the repose nor provoke the dignity of a free and enlightened people.

THOMAS W. GILMER.

Mr. INGERSOLL read a report on behalf of himself and Mr. ROOSEVELT, two members of said committee, also in opposition to the majority report, as follows:

*The undersigned, members of the Select Committee to whom the President's Message is referred, submit a brief and hasty protest against the elaborate report of the majority.*

Free Government depends on constitutional checks; otherwise, democracy is despotism. Each House of Congress has an absolute negative upon the other. The American judiciary exercises power to annul laws. The Union and the States, respectively, in some instances, nullify each other's legislation; the sovereign arbiter, being the people, never yet, in more than fifty years of prosperous experience, failing to interpose their political omnipotence, peaceably, intelligibly, and for the general welfare. In addition to these fundamental principles, which are the conservative bases of our free institutions, the Constitution of the United States requires the Executive Magistrate, if he disapproves an act of Congress, to return it, with his objections, to its authors, and call upon them to reconsider, before it can become a law. There is no veto, as is too often supposed, either in the word or the spirit of the constitution; but mere authority for executive reference to legislative reconsideration. Unfounded resemblance has been ignorantly supposed between this American provision for deliberation to prevent errors of passion and precipitancy, and the absolute inhibition of the Roman, or the modern royal veto. There is no resemblance whatever between them. They are as unlike as free and absolute government; as unlike as the Polish veto, which allowed every member of a single branch legislature, without reason, to repudiate any of its proceedings by his single and solitary voice. Equally unfounded is it to suppose (as ignorance of their operations frequently does) that the monarchs of France and England are not absolute enough to use the veto. They use it every day; one of them, in the exclusive right of initiating all legislation—and both of them by the vaster means of executive influence. What has been passionately stigmatized as the one-man power in this country, is, in principle,

the same thing as the separation of Congress into two bodies, to correct the errors of each other; though much less powerful, because the power of a majority, by a single vote in either House, is absolute, while that of the Executive is merely suspensive and subordinate. Had all the members of the House of Representatives voted on the tariff bill, it would have been either carried or lost by one vote—and that, the casting vote of the Speaker. There is much of one-man power in all free government.

The majorities in Congress in 1774, on all the essential points and principles of the declaration of rights, were but one, two, or three. All the great critical questions about men and measures, from 1774 to 1778, were decided by the vote of a single State, and that often by the vote of one individual. The Declaration of Independence itself was so carried. The English revolution of 1688 was determined by one or two votes in Parliament. The King of France was condemned to death by a very few votes. Jefferson was elected in place of Burr, after thirty-seven trials, by one vote. The expedition in 1745, from New England against Cape Breton, which gave peace to the world, was carried in the House of Representatives of Massachusetts by a single vote. Most of the acts of Congress in the memorable session of 1794, were carried by the casting vote of the Vice President. The vote of New York, which finally led to the convention for forming the present constitution, after the failure of the Virginia attempt, by which only the States were represented at Annapolis, was carried by one vote. The first Bank of the United States failed to be rechartered by the casting vote of the Vice President. The late bank of the United States was negatived, when first proposed, by the Speaker's casting vote. This instructive enumeration might be much enlarged, teaching that the responsibility of one man has often saved States and changed constitutions. Such salutary executive authority has been exercised from the outset of the American Government with marked approval by an intelligent people, wisely appreciating, in their chief representative, the inestimable value of a firm and judicious interposition of this conservative and indispensable relief. For the first time in the annals of the United States, this immediate emanation of the constitution is subjected, on the motion of an ex-President, (the chairman of this committee,) to the obstruction of the mere technicalities of legislation. The constitution commands us to journalize the President's objections, and then vote on them. The House did so on his premonitory objections to a like bill, but sent him another. Had we power to do so? Were not the functions of the House exhausted by the previous proceeding? Can they reiterate upon the Executive a bill which he has returned, and the House cannot carry? No such attempt was ever made before. The undersigned feel it their imperative duty to protest against and resist it by the only means left to a minority, preventive of the unconstitutional acts of an angry majority, believing that the time is near at hand when they will themselves most regret, as all will condemn, the innovation.

The succession of the acting President to the Chief Magistracy was unavoidably followed by collisions between him and the party who selected and elected him, because he suffered himself to remain in the hands of their advisers, instead of his own. Those whose political sympathies the un-

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dersigned enjoy are in no respect answerable for this strife, which they have uniformly treated with moderation; adhering, however, to the faith of their own politics. We neither made nor aggravate the quarrel; but calmly and conscientiously, with all due respect to majorities inexorably ruling in both Houses, stand upon our rights, and maintain the even tenor of our way, relying upon the people to correct and restore whatever may be amiss, as they have been doing with alacrity ever since the disastrous commencement of the untoward legislation of sessions of Congress which have now endured for nearly twelve months of the last fifteen. All the elections since afford unquestionable proof that, if there is any wrong in the Federal Government, the constitutional means of restoring right are in full and active operation. While thus abiding their time, the minorities of the two Houses of Congress abide by the principle that the First Magistrate of a great people is entitled to respect, and even by opponents should be treated with decorum. We know no difference in language and feeling towards the President and those which we use toward each other in Congress. His not being personally present is, in our opinion, no reason for maligning his motives, traducing his character, or vilifying his administration. The most strenuous, inflexible, and successful opposition consists with the language and spirit of moderation; and if the people are the intelligent sovereignty supposed by our institutions, would be more popular than indignation, violence, and obloquy. The President has communicated his objections to an act of Congress, against which numbers so large in both Houses voted, as to prove, beyond doubt, that it is extremely objectionable; and which we, in common with every one of those large numbers, representing, as we have every reason to believe, the wishes of a large majority of the American people, conscientiously deem unwise, unjust, and, as many think, unconstitutional. The President's objections are contained in a respectful message, temperate in tone, persuasive in argument, and developing topics which we believe will meet with popular acceptance. Of the several messages of the same kind, drawn from Mr. Tyler by this Congress, candor and history will acknowledge, we think, that the last is the best, in all the merits of reason, diction, and temper. The constitution gives him the right which his conscience enjoins him to exercise. Allowing the Chief Magistrate, therefore, what every President is entitled to, and has enjoyed on such occasions—simply to speak and act for himself—the next step, according to the constitution and uniform practice, should have been forthwith to take the votes of the House of Representatives, which would undoubtedly have shown that the President is sustained by very nearly, if not quite, a majority.

The undersigned regret the novel and (as many conceive) unconstitutional innovation to which the President's objections are subjected—not for his account, but that of constitutional liberty and congressional propriety. We believe that he is perfectly right in insisting that the public lands shall not be withdrawn from the assets of the Federal Government, when, with all the elements of resource and abundance proffering their relief to Congress, it persists in reducing and degrading the country, for the first time, to the extremities of financial want and pecuniary distress. We go much further than the President. We think that, under such circum-

stances, to withhold the magnificent real estate of this Union from public mortgage, is an act of madness and suicide difficult to conceive of human passions. We have not a doubt that nine-tenths of the people of the United States strongly disapprove of it, and that a majority of those misrepresented by majorities in Congress, whatever their impressions might be as to the proper disposition of the public lands under ordinary circumstances, are anxious that, in the present emergency, they should be applied to restore the credit and relieve the crying wants of the Government. The objection is equally well taken to the monstrous misalliance of the lands and the impost in the same bill—pernicious to fair legislation and orderly Government. Armies and navies unpaid for months; disbanded and dismantled, not for want of revenue, but through party passion; Congress, without their own favourite compensation, putting fetters and vetoes on all the operations of Government, betray a spirit of petulant self-denial, the counterfeit of self-government. A member of this committee imprecates executive counteraction, by putting the whole country, stripped and scourged, to the torture of trial, who can longest bear the agonies of destitution—thus poisoning the very wells of public sentiment; arousing ruthless, revolutionary counteraction, if the people are not wiser than some of their Representatives. Party, an element and help of patriotism, may be prostituted to anarchical dissension. The undersigned trust that revolutionary views are not common in Congress, as we feel sure that they are not acceptable to the people.

It is not for this protest to explain or enforce the Executive objections. Letting them speak for themselves, we vindicate constitutional rights, and deprecate wrongs by Congress. Without objecting to any censure or measure deemed proper by the frustrated majority—any appeal to the people—we should spare them this protest, but for the character, temper, and tendency of the counteraction inflicted—not so hurtfully on the Chief Magistrate, as on republican institutions. The present proceeding, with all its angry antecedents and violent results, is without example, without warrant, and of evil tendency.

The deplorable condition of the treasury of the United States is notorious; not only without money, but, as has been said, without law for raising it. The President's exposure of this penury is a humiliating truth, which unrelenting opposition wrings from him, to justify the repeated mis-called vetoes, also wrung from him by the same pertinacious opposition. A complicated scheme of (in many particulars) high-pressure impost, calculated to revive appeased dissension, and perpetuate unappeasable discontent, forced through Congress by inexorable legislation, carried by a majority of one vote if all had been present—of but four as it was— is returned by the President, with objections, for reconsideration. The House of Representatives, which ought to be thankful for the opportunity of it, turns upon him with indignant denunciation; he is threatened, and only threatened, with impeachment; and, by false analogy to the memorable affair of English ship-money, is told, contrary to the genius and the letter of our mild laws, that his head ought to be brought to the block. Discord is proclaimed as the order of the day. Conciliation is said to be disgraceful, and concession out of the question. The undersigned flatter them-

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selves that these are but hasty ebullitions through the safety-valves of free government. When appeal to battle is menaced, we cannot believe that the battle of bloodshed or civil war is contemplated, but presume nothing worse than conflict by the ballot-box, not the cartridge-box. The columns of this capital and of the public press, albums, magazines, and various other repositories of the ardent temperament which betrays itself in such appeals, may excuse the suggestion that possibly they are intended neither for the cartridge-box nor the ballot-box, but merely for the band-box. During the nearly twelve months of irksome and inglorious session of this Congress, to the great annoyance of the community, appeals to passion have been much more common than to reason. By the eminent mover of this committee, none of the great subjects of deliberation have hardly been spoken of—banks, exchequer, finance, bankruptcy, tariff—upon any and all of which wisdom and experience might have afforded edifying discourses; while all the minor topics of personal, party, and especially presidential exasperation, have never failed to be vexed with implacable and indefatigable agitation.

It has been said, in the course of indignant harangues, that there is not only no money, but no law to raise it; and that the Chief Magistrate, like a profligate King of Great Britain, collects revenue without law. Party wish did, perhaps, beget mistaken impressions to that effect, to which mere professional opinion gave color. But mature consideration, and the true philosophy of interpretation, satisfy the undersigned, and they believe the most distinguished jurists of the country, that it is unfounded apprehension to think that Congress ever could have intended, by any act or omission, to leave Government without aliment for its subsistence. This important question will be settled by the Supreme Court of the United States, in whom the undersigned, with the great body of the American people, without distinction of party, repose confidence. The aspersion of that tribunal, inferred from English history, is not only unjust disparagement, but inaccurate historical recollection. Even the twelve judges of England never did, as has been said, unworthily submit to royal dictation; but many of them (although their tenure of office, salaries, and perhaps lives, depended on the King's pleasure) manfully resisted his rapacious will. In the United States, the public money—which the President is laudably anxious to raise by law, through the ordinary means—could not be employed in his profligate indulgences in war or other offensive application; and we trust that the judges of the Supreme Court of the United States, in no way dependent on the Executive, whenever they come to the solemn adjudication of this vital question, will deal with it, as they did at their late session with another, which, probably, provoked the unjust imputation on their rectitude—treating this question of impost, as they did that of slavery, with integrity and independence. The undersigned hope they will come to the conclusion, which all lovers of their country must desire, that, instead of deserving capital punishment, the President is entitled to the thanks of dispassionate men for anxiously enforcing the law concerning imports. Nor will we omit this occasion, while vindicating that court, of expressing grateful acknowledgments to it for having, contrary to many pre-

possessions, by independent judgment, sustained the most delicate provisions of our Union against the clamors and prejudices of negrophilism. Finally, the undersigned are assured, that whatever the court does, they will not leave (as has been strangely imagined they must) the determination of this great question of law to the arbitrament of juries. There is hardly a juror in the country who does not know that property, liberty, and order, are best preserved by maintaining that venerable jurisprudence which, in civil cases, leaves to juries only questions of fact, and refers to judges questions of law. The undersigned have no fear of the judiciary. They dread no veto or dictation from a President. They are not alarmed by crises of party. American republican annals are a continued series of formidable conjunctures, without detriment to the republic—antagonism without commotion—State and individual conflicts without civil war, or any unwholesome catastrophe. The charitable ballot-box is always at hand, with inestimable relief, to vent all passions. We are happy to find that a portentous committee—the offspring of indignation—proposes no fatal act, but its proceedings will go out in harmless explosion. Eloquent invective, angry denunciations, philippics of speech and print, inflict no fatal blows on the solid bulwarks of this great empire, which advances steadily in greatness, increasing in population, production, and power, rejoicing in peace and plenty, while antagonist parties and ambitious individuals struggle for its honors with fierce but harmless recrimination. Republican Government would else be bereft of its rational attractions and manly support—the noble excitements of a free press, free speech, and universal suffrage; admirable substitutes for the stagnant tranquillity, frivolous recreations, and dreadful energy of despotism. Let the battlements of this Capitol continue to rock with salutary agitation. Our reliance is in the majestic strength and serenity of a sovereign people.

The undersigned cannot believe that Congress will adjourn without enacting a law for revenue. They will not afford the President so great a triumph. The public distemper is so easily remediable, that those in power never can answer to the community for longer failing to apply the remedy. The minority is not responsible, nor the President, nor even the Senate. The House of Representatives is exclusively the national purse-bearer. By the majority of that House should be annually replenished and arranged its receipts and issues, as the report of the majority of this committee argues. Most of the troubles experienced by the present and penultimate Administrations, including the overthrow of the latter, are attributable to supererogatory Executive efforts, beyond Executive duty, to repair disordered finances—disordered by ill-judged and calamitous acts of Congress. The people will hold the majority of the House of Representatives responsible for this their appropriate and chief office. It is disreputable to them that restoration so easy has been long deferred. No country in the world has such resources and facilities for revenue. One year's administration of such laws as Congress should enact, would draw from the inexhaustible means, the labor, the ingenuity, the commerce, the manufactures, and the public lands of the United States, superabundant



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income. But, as with the fatal distribution of surplus revenue among the States, distress and demoralization began, so are they continued by the same egregious impolicy; insisting on alms—giving a pittance of land sales to the States. The undersigned discern, with deep disapproval, that the report of the majority of this committee, in conformity with the votes of its chairman, strenuously argues distribution of the public lands to pay the debts of the States. This is not the occasion to develop the dangers of that much-condemned scheme. In preference for another, and much better, nearly all Congress coincide in opinion with the President and the people, viz:—that immediate relief would proceed from a moderate, discriminating, permanent tariff. Why is it not a law? Why may it not be at once? Who hinders it? Is party passion to prevail, or magnanimous patriotism? The undersigned will not doubt, even though perhaps doomed to disappointment.

This mortal issue, if cast by Congress upon an injured, insulted, oppressed, and outraged people, may return, with dread responsibility, with deep damnation, to plague the inventors of such mischief. Those we act with are ready to go forth, and be tried by the country, in full confidence of popular justice. Others will determine for themselves, and for us too, as we are but a minority. The report of the majority proposes nothing but that the President be assailed, and the constitution assaulted; the President impeached without trial, the country dishonored in him for exercising, almost under Congressional duress, an unquestionable and much-cherished power, dear to a noble people, which it is the wildest dream of excited party to suppose that people will ever suffer to be stricken from the constitution. Meantime, what is to be done? Are Congress to call out more vetoes? Like barbarous nations, worshipping demoniac creatures of their own malignant imagining, are we all to be sacrificed to the evil geni of Discord and Despair? Are distraction and inaction to minister furious and dreadful redress? The undersigned rely on popular providence, which, in severer trials, has, with the smiles of Heaven, overruled whatever perils have beset our (till now) thoughtful and considerate country. No God of battles is invoked for our rescue. Deprecating such shocking profanation, we humbly trust that no battle or bloodshed, no civil war or massacre, is the only umpirage to determine for rational freemen the simple question whether they will support or repudiate the Government of their own creation. We do not despair. We do not fear that savage infatuation will cast away for future scorn the present admiration and refuge of the world.

C. J. INGERSOLL.  
JAMES I. ROOSEVELT.

Mr. FILLMORE suggested the propriety of ordering the reports to be printed, and of the House proceeding to the consideration of the army bills.

The SPEAKER observed, that the gentleman from Massachusetts had a motion pending before the House in relation to the various reports that had just been laid before it.

Mr. JOHNSON, of Maryland, rose to a point of order. The motion was to postpone the consideration of the reports and bill till to-mor-

row, and print them. That he understood to be the substance of the motion; and the consequence would be, that the bill, which was laid on the table, would have to follow the consideration of the reports; while the constitution required that the action should be on the bill.

The SPEAKER said he would remove the gentleman's objections, by referring to a decision he had already made—that it would be at all times in order to move to take up the bill. If the gentleman would make that motion now, and a majority sustained him, the bill would at once be brought before the House.

Mr. JOHNSON said he did not wish to throw any obstacles in the way of the business of the House, and that he would withdraw his point of order.

The question was then taken on Mr. ADAMS's motion, and carried.

WEDNESDAY, August 17.

The SPEAKER announced the regular business to be the special order made yesterday, viz: the reports and resolution of the committee on the veto message.

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Mr. W. C. JOHNSON said the House was bound by the constitution to consider the revenue bill, which had been vetoed, before any action could be had on the reports and resolution of the committee. Regarding this as a privileged question, he moved that the House proceed to the consideration of the vetoed bill, with the President's objections thereto.

The SPEAKER said the motion was in order.

Mr. ADAMS said the special order for 12 o'clock was the reports and resolution of the committee.

The SPEAKER replied that that would be the regular order of business if this motion should be voted down.

The yeas and nays were then taken on Mr. JOHNSON's motion, which was determined in the affirmative—yeas 128, nays 77.

After remarks from Mr. J.,

Mr. ARNOLD moved the previous question; which was seconded by the House.

The question recurring on the passage of the bill notwithstanding the President's objections, and the constitution requiring this question to be taken by yeas and nays, the vote was taken in that way, and resulted—yeas 91, nays 87, as follows:

YEAS.—Messrs. Adams, Allen, Landaff W. Andrews, Sherlock J. Andrews, Appleton, Arnold, Aycrigg, Babcock, Baker, Barnard, Barton, Birdseye, Blair, Borden, Botts, Brockway, Jeremiah Brown, Burnell, Thomas J. Campbell, Childs, Chittenden, John C. Clark, Jas. Cooper, Cowen, Cranston, Cravens, Cushing, Garrett Davis, John Edwards, Everett, Fillmore, A. Lawrence Foster, Gentry, Goggin, Granger, Green, Hall, Halsted, Howard, Hudson, Joseph R. Ingersoll, William W.



Irwin, James, William Cost Johnson, John P. Kennedy, Lane, Linn, McKennan, Thomas F. Marshall, Mathiot, Mattocks, Maxwell, Maynard, Moore, Morgan, Morris, Morrow, Osborne, Owsley, Pearce, Pendleton, Pope, Benjamin Randall, Alexander Randall, Randolph, Ridgway, Rodney, William Russell, Saltonstall, Shepperd, Truman Smith, Solters, Sprigg, Stanly, Stratton, Alexander H. H. Stuart, John T. Stuart, Summers, John B. Thompson, Richard W. Thompson, Tillinghast, Toland, Tomlinson, Triplett, Underwood, Van Rensselaer, Washington, Edward D. White, Joseph L. White, Thomas W. Williams, Joseph L. Williams, and Yorke—91.

**YAYS.**—Messrs. Arrington, Atherton, Beeson, Bidlack, Boyd, Aaron V. Brown, Charles Brown, Burke, William O. Butler, Green W. Caldwell, Patrick C. Caldwell, John Campbell, Cary, Casey, Chapman, Clifford, Clinton, Coles, Colquitt, Mark A. Cooper, Daniel, Richard D. Davis, Dawson, Dean, Doan, Doig, John C. Edwards, Egbert, John G. Floyd, Gamble, Gerry, Gilmer, William O. Goode, Gordon, Gwin, Habersham, Harris, Hastings, Hays, Holmes, Houck, Houston, Hubbard, Charles J. Ingersoll, Cave Johnson, John W. Jones, Lewis, Littlefield, Abraham McClellan, Robert McClellan, McKay, McKeon, Mallory, John Thomson Mason, Matthews, Medill, Miller, Newhard, Payne, Plumer, Proffit, Read, Reding, Reynolds, Rhett, Riggs, Rogers, Roosevelt, Sanford, Saunders, Shaw, Shields, William Smith, Snyder, Steenrod, Sumter, Sweney, Jacob Thompson, Turney, Van Buren, Ward, Watterson, Weller, James W. Williams, Wise, and Wood—87.

So the bill was not passed, there not being the constitutional majority of two-thirds.

Mr. ADAMS moved that the House proceed to the consideration of the report and resolution of the select committee appointed to consider the President's message.

The SPEAKER said that that was the regular order of business; and directed the clerk to read the resolution at the conclusion of the committee's report; which was read as follows:

*"Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring therein, That the following amendment to the Constitution of the United States, in the 7th section of the 1st article, be recommended to the Legislatures of the several States, which, on the adoption of the same by three-fourths of said Legislatures, shall become part and parcel of the constitution:*

*"Instead of the words 'two-thirds,' twice repeated in the second paragraph of the said seventh section, substitute, in both cases, the words 'a majority of the whole number.'"*

Mr. ADAMS observed that he was himself prepared to vote for that resolution at this time. He did not desire to take up the time of the House by debating it, and would merely observe that the alteration proposed in the constitution was as small as could be, to be any alteration at all. It proposed to substitute a majority of the whole number of the House and Senate, for a majority of two-thirds, for the passage of a bill after it had been returned by the President with his objections. The reasons

for this change were briefly stated in the report of the majority. So far as related to himself, he had been, from the time the constitution was first adopted, opposed, in principle, to all amendments of that instrument. He had, in general, disapproved of them; and he did not know that he had ever voted, since he had been a member of the House, for any alterations proposed to that instrument. He had a general prejudice against any alterations of an instrument that he regarded in so solemn and so sacred a light. Unless evils arose of an intolerable nature, it was better for the people of the United States "to bear the ills they have, than to fly to others that they know not of." With regard to this particular provision of the constitution, he had always been in favor of it, from the time the constitution was adopted till very recently; but he could not stand the effect of repeated experience. His faith in the establishment of that principle as part of the constitution had been gradually shaken, till he was ready to vote for this alteration, as proposed in the report. He did not know one out of the whole number of vetoes (so called) that had been given since the establishment of this constitution, that it would not have operated better for the country, if the measures they prevented had become laws. He doubted whether it would not have been better for the nation if the power had not existed. As a part of the great system of checks and balances in the Government, he was still willing, for one, to leave the people of the United States to experience the future exercise of that power, limited and modified as proposed in the resolution. When he spoke of experience, he need not go any farther than the Administration under which this power had been exercised much more frequently than under any other. The vetoes of President Jackson were all, in his opinion, among the most pernicious acts that could have been committed for the people of the United States and their highest interests.

After a few further remarks, Mr. A. took his seat, intimating his intention to reply, if he thought proper, to any thing that might be said in debate.

Mr. ROOSEVELT said that, at this late period of the session, when the people were looking for a speedy adjournment of Congress, and when appropriations like that before the House could not possibly pass, or, at least, could not become operative, he thought it was useless to waste the time of the House in further discussion. He thought the members here had no right to trifle with the wants of the people, who were expecting them to do something, or go home. Though it was a very unusual thing for him to move the previous question—and he thought it should not be resorted to except on special occasions—he felt it to be his duty to move it on the present occasion. He thought the present was one of those periods when the previous question might be resorted to with propriety. The House had this day taken a

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vote upon a bill passed by the two Houses and returned by the President with his objections, and the result was, a lean majority of four votes in favor of the bill—the same majority by which it was originally passed. Though the numbers for and against the bill had changed, the majority seemed to be stereotyped. It was with a conviction of the necessity of doing something, that he was induced to move the previous question.

The previous question was then sustained—ayes 85, noes 50.

Mr. BIDLACK moved to lay the report and the resolution on the table.

The yeas and nays were then taken—yeas 85, nays 102.

The SPEAKER then stated the question to be on the adoption of the report.

Mr. WISE asked to be excused from voting. He said the report charged the President with certain high crimes and misdemeanors; for which, if he were culpable, he ought to be impeached. But as it was the constitutional duty of the Senate to try articles of impeachment, he, (Mr. WISE,) as a member of this House, ought not to be called upon to vote upon them, this House having no power to try the President.

The House excused the gentleman.

The yeas and nays were then called; and resulted as follows:

YEAS.—Messrs. Adams, Allen, Landaff W. Andrews, Sherlock J. Andrews, Arnold, Ayerigg, Babcock, Baker, Barnard, Barton, Birdseye, Blair, Boardman, Borden, Botts, Milton Brown, Jeremiah Brown, Burnell, Calhoun, Thomas J. Campbell, Caruthers, Casey, Chittenden, John C. Clark, James Cooper, Cowen, Cranston, Cravens, Garrett Davis, Deberry, John Edwards, Fillmore, A. L. Foster, Gentry, Goggin, Graham, Granger, Green, Hall, Halsted, Howard, Hudson, James Irwin, James, John P. Kennedy, King, Lane, Linn, McKennan, Thomas F. Marshall, Samson Mason, Mathiot, Matlocks, Maxwell, Maynard, Mitchell, Morgan, Morris, Morrow, Owsley, Pearce, Pendleton, Powell, Ramsay, Benjamin Randall, Alexander Randall, Randolph, Rayner, Ridgway, Rodney, J. M. Russell, Saltonstall, Shepperd, Slade, T. Smith, Sollers, Sprigg, Stanly, Stratton, John T. Stuart, Summers, Taliaferro, John B. Thompson, Richard W. Thompson, Toland, Tomlinson, Triplett, Trumbull, Underwood, Van Rensselaer, Wallace, Warren, Washington, E. D. White, Joseph L. White, Thomas W. Williams, Christopher H. Williams, Joseph L. Williams, Yorke, and Augustus Young—100.

NAYS.—Messrs. Arrington, Atherton, Beeson, Bidlack, Bowne, C. Brown, Burke, Green W. Caldwell, P. C. Caldwell, John Campbell, Clifford, Clinton, Coles, Colquitt, Mark A. Cooper, Cross, Cushing, Daniel, Richard D. Davis, Dawson, Doan, Doig, John C. Edwards, Egbert, John G. Floyd, Gilmer, W. O. Goode, Gordon, Gustine, Gwin, Harris, Hastings, Hays, Holmes, Hopkins, Houck, Houston, Hubard, Hunter, Charles J. Ingersoll, William W. Irwin, Cave Johnson, John W. Jones, Keim, Andrew Kennedy, Lewis, Littlefield, Robert McClellan, McKay, McKeon, Mallory, John Thompson Mason, Medill, Miller, Newhard, Parmenter, Payne, Plumer,

Proffit, Read, Reding, Reynolds, Rhett, Riggs, Rogers, Roosevelt, Saunders, Shaw, Shields, Snyder, Steenrod, Sumter, Jacob Thompson, Turney, Van Buren, Ward, Watterson, Weller, James W. Williams, and Wood—80.

The next question was on the adoption of the resolution; on which the yeas and nays were taken, and resulted as follows:

YEAS.—Messrs. Adams, Allen, L. W. Andrews, S. J. Andrews, Appleton, Arnold, Ayerigg, Babcock, Baker, Barnard, Birdseye, Blair, Boardman, Borden, Botts, Brockway, Milton Brown, Jeremiah Brown, Burnell, Calhoun, Thomas J. Campbell, Caruthers, Casey, Chittenden, John C. Clark, James Cooper, Cowen, Cranston, Cravens, Garrett Davis, Deberry, John Edwards, Fillmore, A. L. Foster, Gentry, Giddings, Goggins, Patrick G. Goode, Graham, Granger, Green, Hall, Halsted, Howard, Hudson, James Irwin, James, John P. Kennedy, King, Lane, Linn, McKennan, Samson Mason, Mathiot, Maxwell, Maynard, Morgan, Morris, Morrow, Owsley, Pearce, Pendleton, Powell, Ramsay, Benjamin Randall, Alexander Randall, Randolph, Rayner, Ridgway, Rodney, Wm. Russell, James M. Russell, Saltonstall, Shepperd, Slade, Sollers, Stanly, Stratton, John T. Stuart, Summers, Taliaferro, John B. Thompson, Richard W. Thompson, Toland, Tomlinson, Triplett, Trumbull, Underwood, Van Rensselaer, Wallace, Warren, Washington, Edward D. White, Joseph L. White, Thomas W. Williams, Christopher H. Williams, Joseph L. Williams, Yorke, and Augustus Young—98.

NAYS.—Messrs. Arrington, Atherton, Barton, Beeson, Bidlack, Bowne, Charles Brown, Burke, Green W. Caldwell, Patrick C. Caldwell, John Campbell, Cary, Clifford, Clinton, Coles, Colquitt, Mark A. Cooper, Cross, Cushing, Daniel, Richard D. Davis, Dawson, Doan, Doig, Egbert, Ferris, John G. Floyd, Gilmer, William G. Goode, Gordon, Gustine, Gwin, Habersham, Harris, Hastings, Hays, Holmes, Hopkins, Houck, Houston, Hubard, Hunter, Charles J. Ingersoll, William W. Irwin, Cave Johnson, John W. Jones, Keim, Andrew Kennedy, Lewis, Littlefield, Abraham McClellan, Robert McClellan, McKay, McKeon, Mallory, Thomas F. Marshall, John Thomson Mason, Mattock, Medill, Miller, Mitchell, Newhard, Parmenter, Payne, Plumer, Pope, Proffit, Read, Reding, Reynolds, Rhett, Riggs, Rogers, Roosevelt, Sanford, Saunders, Shaw, Shields, Snyder, Steenrod, Sumter, Jacob Thompson, Turney, Van Buren, Ward, Watterson, Weller, James W. Williams, Wise, and Wood—90.

THURSDAY, August 18.

*The Tariff.*

From the Committee of Ways and Means, Mr. FILLMORE reported the following resolution:

*Resolved*, That it is expedient to pass another revenue bill, the same as that which recently passed both Houses of Congress and has been returned by the President, with his objections, to this House, and, on reconsideration, lost for want of the constitutional majority, entitled "An act to provide revenue from imports, and to change and modify existing laws imposing duties on imports, and for other purposes," with the exception of the 27th

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section of said bill, which repeals the proviso to the land distribution act; and so modified as to make tea imported from beyond the Cape of Good Hope, and coffee, imported in American vessels, free from duty; and that the Committee of Ways and Means be, and they are hereby, instructed to report such a bill to this House with all convenient despatch.

Mr. F., after stating the objects of the resolution, observed that he had reported it as the organ of the Committee of Ways and Means, only for the purpose of testing the sense of the House on this subject, and of ascertaining whether it was practicable to pass another revenue measure at this session. Mr. F. then called for the previous question.

Mr. BORRIS moved to lay the resolution on the table, and called for the yeas and nays.

The question was then taken on Mr. BORRIS's motion to lay the resolution on the table, and rejected—yeas 75, nays 108.

The previous question was then seconded, and the main question ordered.

The yeas and nays on the main question, (being the adoption of the resolution,) having been called for, were ordered.

Mr. HAYS here called for a division of the resolution, so as to take the question on that part of it which declares that it is expedient to pass another revenue bill; and referred to the rule of the House he had just cited.

The SPEAKER decided the motion to be out of order, on the ground that, if the first division should be rejected, there would be no sense in the remainder.

Mr. HAYS appealed from the decision of the Chair; but, on taking the vote, it was sustained by the House.

The question on the adoption of the resolution was then put; and the Chair announced the vote to be as follows:

YEAS.—Messrs. Allen, Sherlock, J. Andrews, Appleton, Ayer, Baker, Beeson, Bidlack, Birdseye, Blair, Boardman, Borden, Brockway, Jeremiah Brown, Burnell, Calhoun, Chittenden, John C. Clark, Cowen, Cranston, Cushing, Garrett Davis, Richard D. Davis, John Edwards, Everett, Ferris, Fessenden, Gerry, Giddings, P. G. Goode, Granger, Hall, Halsted, Howard, Hudson, Hunt, Charles J. Ingersoll, Joseph R. Ingersoll, James Irvin, William W. Irwin, Keim, McKennan, T. F. Marshall, Samson Mason, Mattocks, Maxwell, Maynard, Moore, Morgan, Morris, Morrow, Newhard, Osborne, Farmer, Pendleton, Plumer, Pope, Powell, Proffit, Ramsay, Benjamin Randall, Randolph, Read, Ridgway, Riggs, Rodney, Wm. Russell, James M. Russell, Saltonstall, Sanford, Slade, Truman Smith, Stratton, John T. Stuart, Toland, Tomlinson, Trumbull, Van Rensselaer, Wallace, Ward, Westbrook, Edward D. White, Thomas W. Williams, Joseph L. Williams, Yorke, and Augustus Young—86.

NAYS.—Messrs. Adams, Landaff W. Andrews, Arnold, Arrington, Atherton, Barton, Black, Botts, Boyd, Milton Brown, Burke, Wm. O. Butler, Green W. Caldwell, Patrick C. Caldwell, John Campbell, William B. Campbell, Thos. J. Campbell, Caruthers, Cary, Casey, Chapman, Clifford, Clinton, Coles, Colquitt, Mark A. Cooper, Cravens, Cross, Daniel,

Dawson, Dean, Doan, John C. Edwards, Egbert, Fillmore, John G. Floyd, Gamble, Gentry, Gilmer, Goggin, William O. Goode, Gordon, Graham, Green, Gwin, Habersham, Harris, Hastings, Hays, Holmes, Hopkins, Houck, Houston, Hubard, Hunter, Wm. Cost Johnson, Cave Johnson, John W. Jones, John P. Kennedy, Andrew Kennedy, King, Lane, Lewis, Linn, Littlefield, Abraham McClellan, Robert McClellan, McKay, McKeon, Mallory, John Thomson Mason, Mathiot, Matthews, Medill, Miller, Mitchell, Owsley, Payne, Alexander Randall, Rayner, Redding, Reynolds, Rhett, Rogers, Roosevelt, Saunders, Shaw, Shepperd, Shields, William Smith, Sollers, Sprigg, Stanly, Steenrod, Alexander H. H. Stuart, Summers, Sumter, Taliaferro, John B. Thompson, Richard W. Thompson, Jacob Thompson, Triplett, Turney, Underwood, Warren, Washington, Waterson, Weller, Joseph L. White, J. W. Williams, C. H. Williams, Wise, and Wood—114.

FRIDAY, August 19.

*The Tariff.*

Mr. CHARLES J. INGERSOLL rose to offer a resolution from the Committee on the Judiciary, and, if any objections should be made, he would move for a suspension of the rules. The resolution provided for the introduction of the bill offered by him the other day, altered so as to take the duties of 1840; and also, with a limitation, added by himself, to two years.

Mr. BORRIS and others objected to the resolution.

Mr. INGERSOLL inquired whether he could move to go into the Committee of the Whole without suspension; and, on being answered in the affirmative, submitted a motion to that effect.

Mr. INGERSOLL said that, if his motion prevailed, and the House went into Committee of the Whole, he should move to take up the bill introduced by the chairman of the Judiciary Committee, to supply a temporary defect or failure in the law to collect revenues from imports; and that motion prevailing, he should then move to amend it by substituting the bill offered by him the other day, with the modifications he had just indicated.

Mr. O. J. INGERSOLL asked for the yeas and nays; and they were ordered, and resulted as follows:—yeas 98, nays 84.

The House then resolved itself into Committee of the Whole, (Mr. J. R. INGERSOLL in the chair.)

The CHAIRMAN stated that, when the House was last in committee, the bill under consideration was the navy pension bill.

Mr. CHARLES J. INGERSOLL moved to lay aside that bill, that the committee might take up bill No. 547, (Mr. BARNARD's bill,) entitled "A bill to supply a temporary defect or failure in the laws relating to the collection of duties on imports."

The tellers then took the vote, and reported 91 in the affirmative, and 53 in the negative.

The bill was therefore taken up.

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Mr. C. J. INGERSOLL moved to strike out all after the enacting clause, and insert the following as a substitute :

A BILL to provide revenue from imports.

*Be it enacted, &c.*, That from and after the passage of this act, the same duties upon imports shall be levied, collected, and paid, under the same laws, rules, and regulations, which were levied, collected, and paid the 1st day of January, 1840, under the provisions of the act approved 2d March, 1833, entitled "An act to modify the act of 14th January, 1832, and all other acts imposing duties on imports," except that the said duties shall be paid in cash: *And provided, further*, That in all cases where specific duties were imposed upon imports prior to the passage of the said act, it shall be the duty of the Secretary of the Treasury to ascertain the average rate of duty which was collected upon each of the said articles throughout the year 1840; and such average rate of duty shall hereafter be levied, collected, and paid, as a specific duty upon the importation of the said articles, in the same manner as if such respective specific duties were respectively imposed by this act.

SEC. 2. *And be it further enacted*, That, on the importation of all the articles made subject to a duty of 20 per cent. ad valorem, under the provisions of the act entitled "An act relating to duties and drawbacks," approved September 11th, 1841, there shall hereafter be levied, collected, and paid, a duty of 30 per cent. ad valorem, except upon railroad iron, which shall be subject to the same rate of duty as bar or bolt iron, of similar manufacture, under the 1st section of this act; but nothing herein contained shall be so construed as to deprive any State or incorporated company, which shall have imported railroad iron prior to the 3d day of March next, of the benefits and advantages secured to them respectively by the proviso to the 5th section of the said act relating to the duties and drawbacks.

SEC. 3. *And be it further enacted*, That the law shall be in force for and during two years from the day of its becoming a law, and no longer.

The CHAIRMAN stated the question to be on striking out and inserting.

Mr. BARNARD said, before the motion was put, he supposed it would be in order to amend the original bill, with a view to perfect it. He had several amendments which he wished to offer.

The CHAIRMAN decided that such amendments would be first in order.

Mr. BARNARD moved to amend the second section, by adding a clause merely precautionary, to provide that nothing in that act contained shall be regarded as sanctioning at any time hereafter, or as authorizing, the application of that section to cases where a penalty may have been imposed by law. His amendment was in these words:

Nor shall any thing in this act contained be construed to inflict any fine, punishment, or forfeiture, for any act, omission, or occurrence whatever, on any person who was not liable to such fine, punishment, or forfeiture, by any law of the land existing at the time of such omission, occurrence, or forfeiture.

He apprehended there would be no objection to that amendment.

Mr. ADAMS wished the gentleman to explain the necessity for this amendment.

Mr. BARNARD said it would be recollected that this bill was reported from the Judiciary Committee, to supply the defect in the revenue laws, which expired by their own limitation on the 30th June. This bill proposed to reach imports which had been introduced into the country since the 1st of July, to extend to the time when some permanent revenue law should be enacted by Congress. It was retroactive in its operation. It went back beyond the date of its enactment, and reached transactions which had been already transacted. It proposed to lay a duty, or tax, as he supposed it to have existed on the 30th of June. Now, as an act of legislation affecting past transactions, he supposed it to be competent in Congress to pass it into a law. It was retroactive; but it affected civil, and not criminal transactions. The object of the second section was to revive the laws by which Congress had regulated the collection of duties on imports. In those laws there were a great variety of penalties; and it had occurred to him, after that section was drawn, (very full and explicit as it was,) that some one might make it retroactive as to the penalties and punishment to be inflicted by the laws it sought to revive. That he held to be unconstitutional; for the constitution prohibited the enactment of any *ex post facto* law. This, however, did not apply to civil transactions; though he agreed that its spirit had been observed as to civil transactions also, and such laws had not been allowed to touch any one to their injury. But he denied that any one would be injured by this act. What were the facts? Why, imports had been introduced into the country since the 1st day of July, by importers who could not land them on our shores, under existing laws, without a permit; and the act of 1833, known as the compromise act—though in his opinion, and the opinion of a majority of the Judiciary Committee, and many other persons, that law imposing duties had expired by its own limitation; so that, from the 30th of June there was no law for the collection of imports. Yet, that act of 1833 did give notice to all the world that duties should be imposed on imports, to take effect from and after the 30th June, at a rate not exceeding 20 per cent. It was the express direction of the act that there should be such an enactment of law; the only difficulty being, that the law could not execute itself, but required further legislation. Now, all this bill required was, that they should go back and reach past importations, and that the goods should be subjected to duty not exceeding 20 per cent. It proposed to supply an existing defect in the laws; and its not having been applied, did not, in his opinion, excuse the importer of goods from the payment of duties: they had introduced them, expecting to pay duties; and they

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did pay them to the amount of 20 per cent., though they paid them under protest, and they sold them with the duties added, to enhance the price to the purchaser. It was but an act of justice to the treasury that it should be so. And now, as to his amendment which he had introduced: it was intended to cut off the possibility of any fine, or punishment, or penalty, being inflicted by an *ex post facto* law, which, in his opinion, was clearly unconstitutional.

Mr. O. J. INGERSOLL here intimated that, instead of a substitute, he would modify his motion so as to make his bill an addition to the bill of the gentleman from New York.

Mr. ADAMS said this bill, by its title, was a bill to supply a temporary defect or failure in the laws relating to the collection of revenue; and what was that defect? As he understood, on the 30th of June all the laws for the collection of revenue by duties on imports ceased and determined; and from that day no duties on imports could be collected by authority of law. The President, however, proceeded to levy taxes; and he had already said to that House that it presented a case precisely similar to that of "ship money" found in English history, when the King of England undertook to collect money from the people, for the purpose of building ships for the establishment of a navy. Under such a state of things, taxes had been levied on the people of the United States since the 30th of June. Now, the title of the bill reported by the Judiciary Committee of this House had not been contradicted by any member, that he knew of; and, without any protest, the bill had, so far, been before the House.

He objected to this bill, because he considered it *ex post facto* in its civil and criminal operation. The President was now levying money without law; and this bill was to go before the juries of the country, and the Supreme Court, in justification or excuse of his conduct. He referred to the fact, that the House had been charged with ignominious cowardice in declining to impeach the President; and remarked that it was always very safe to dare persons to do that which it was known they would not do.

The question would have to come before the Supreme Court. For his own part, he considered that there was no authority to levy duties. He referred to the fact, that eight out of twelve judges in England had decided in favor of the King, in a similar case, from necessity. Perhaps, (he argued,) the Supreme Court of the United States would decide in favor of the President from a like reason—from necessity—when there was no law. If, however, the Supreme Court should decide against the Government, it would become the duty of the Government to return the money paid in by the merchants, and to indemnify them. Then, it would become a question whether it was not a high crime on the part of the President to levy the duties collected by his officers. Then, too, he

imagined, there would not be such talk about the want of courage to impeach.

He expressed it as his opinion that Congress should not pass any tariff law. The tariff question, he thought, was now on the best footing. There could not be found a majority in both Houses in favor of a better than that now in operation. The revenue got more from the present tariff, than it would from any which they could pass. Indeed, he was inclined to suspect that Southern gentlemen were in favor of cutting it down still lower. His colleague (Mr. CUSHING) had published a speech, in which the tariff was arrayed against distribution, and in favor of taking off the tax on tea and coffee. It was a very good speech for Lowell; but how would it do for Albemarle, Virginia; or Beaufort, South Carolina? He argued that the more you took out of the tariff bill from the tax on tea and coffee, the more it became a protective, and the less a revenue measure.

He referred to the doctrine held by the President on the subject of protection. The President declared himself opposed to protection directly, but was liberal enough toward incidental protection. Now, he argued, this doctrine was in conflict with a resolution passed by the House on the 12th December, 1838, one of a series of resolutions on the powers of Congress. It read:

"Resolved, That Congress has no power to do indirectly, what it cannot do directly."

Yet, the President says, though you cannot protect directly, you may do it indirectly—"incidentally."

He continued his remarks in opposition to the bill, basing his chief objection to it on the ground that it was an *ex post facto* criminal law.

Mr. McKENNA said he did not rise for the purpose of debating this question. It would be unpardonable in him to occupy the time at this late stage of the session, after the matter had been so fully discussed. Every gentleman ought, by this time, to have his mind made up, so as to enable him to vote satisfactorily. He rose merely to suggest that, under the present circumstances, in consideration of the necessitous condition of the country, and the protracted period of the session, they ought to discontinue all further debate, and take the vote at once. [Agreed, agreed.] He implored the House to let the vote be taken, that they might return to their constituents without further delay. After deep consideration, for the sake of a bleeding and suffering country, he had brought his mind to submit to what, under other circumstances, he would lose his right arm before he would agree to submit to. Though distribution was a favorite measure of the Whig party, he would yield the point, and relinquish distribution, rather than fail to secure the passage of a bill which was so indispensably necessary to save the country from destruction. For the sake of reconcilia-

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tion, he was willing to go far. But while he would surrender this point, he could not be expected to surrender the principle of protection for the industry of the country—that he would insist upon. And with this view, he would move to substitute an amendment which he had prepared, in the place of the one moved by his colleague, to the bill introduced by the gentleman from New York. He was satisfied that it was a bill which would afford adequate revenue, and, at the same time, reasonable protection. He saw that some of the Southern gentlemen were disposed to come to the rescue; but he was not disposed to throw himself entirely in their arms. There was one feature in the bill which he could never consent to; and it was, the limitation of the law to two years' duration. If, during that time, the opponents of the Whig party should unfortunately gain the ascendancy—though he trusted in God it would not be the case, [a laugh.]—what would be the consequence? The law would be permitted to expire. There was all the difference in the world between repealing a law, and permitting it to expire.

The motion to substitute having been ruled out of order, Mr. McKENNA moved that the committee rise.

The committee rose.

—  
SATURDAY, August 20.

*New Issue of Treasury Notes.*

Mr. FILLMORE called the attention of the House to a communication which had been sent to the Committee of Ways and Means from the Treasury Department, which pointed out the necessities of the treasury, and recommended the issue of treasury notes to meet the demands created by the appropriation bills which the House had passed.

This communication should have been sent to the House, instead of the committee; and for the purpose of bringing it properly before the committee, he moved that it be referred to the Committee of Ways and Means, and that it be printed.

The communication was then ordered to be printed.

The House then adjourned.

—  
MONDAY, August 22.

*The Tariff.*

Mr. COWEN offered a resolution, fixing 12 o'clock to-day for the termination of debate on Mr. BARNARD's bill to provide for a temporary defect or failure of the law relating to the collection of duties on imports; and on this he moved the previous question, which was sustained by the House. The resolution was then adopted.

Mr. COWEN moved that the House resolve itself into Committee of the Whole, which was

agreed to; and Mr. J. R. INGERSOLL took the chair.

The CHAIRMAN stated the question to be on the amendment of the gentleman from New York, (Mr. BARNARD,) the effect of which was to prevent the infliction of any fine or punishment by an *ex post facto* law.

After some remarks by Messrs. ROOSEVELT, FILLMORE, GORDON, and EVERETT, the question recurred on Mr. INGERSOLL's amendment to strike out the original bill, and insert, as a substitute, the bill submitted by him,

On taking the question, it was rejected—ayes 88, noes not counted.

Various other amendments were offered and negatived.

Mr. McKENNA then moved to strike out all after the enacting clause, and insert as a substitute the bill that was passed by both Houses of Congress, and returned by the President with his objections, with the exception of the 27th section, respecting the proviso in the distribution act, and also with a modification exempting tea and coffee from duty.

Mr. UNDERWOOD moved to amend the amendment, by inserting the 27th section of the old bill, repealing the proviso in the distribution act, so as to allow the distribution to go on.

Mr. CUSHING submitted that the amendment of Mr. UNDERWOOD was not in order on the following points:

1st. It was in violation of the following rule of the House, viz: "No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment."

2d. It was the very provision of the bill returned by the President, to which, and to which alone, he had objected, and which the House had reconsidered under the constitution, and rejected.

3d. It was a *tack* in the sense of parliamentary law, which by that law was held to be irregular, as infringing on the constitutional rights of the other branches of the Government.

The CHAIR overruled the point of order, deciding that there was no incongruity in the amendment, inasmuch as the House had, on a previous occasion, after a lengthy discussion, admitted the same principle in the revenue act, that passed both Houses, and was returned by the President with his objections.

Mr. BARNARD offered an amendment, suspending the operations of the distribution act until the 4th of March, 1845, and after which time the distribution act was to be revived; the land fund till the 4th March, 1845, to be set apart for the payment of outstanding treasury notes, and the redemption of the interest on the public debt. This amendment was rejected—ayes 88, noes not counted.

The question was then taken on the motion of Mr. McKENNA, to strike out all after the enacting clause, and insert his entire bill.

Tellers were called for and ordered; and the

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vote was 99 in the affirmative, and 67 in the negative.

Mr. McKENNA called for the question on the passage of the bill.

Mr. RAYNER rose to ask if it was not necessary for the Chair to vote; and made the point of order that he was bound to do so, under the following rule:

"In all cases of election by the House, the Speaker shall vote; in other cases, he shall not, unless the House be equally divided, or unless his vote, if given to the minority, will make the division equal, and, in case of such equal division, the question shall be lost."

Mr. HOPKINS made some remarks in reference to the previous practice—not perfectly understood by the reporter.

Messrs. PROFFIT and FILLMORE made the point of order that the Chair could not vote after the vote had been announced.

The SPEAKER here read the rule, and made some remarks, which the reporter could not catch, owing to the great confusion prevailing—there being at least twenty members on the floor, all claiming to be heard.

Mr. BOTTS made the question of order whether the Chair was not bound to vote.

The SPEAKER was satisfied, from the rule just read, that he had a right to vote; and, to prevent any further difficulty on the subject, announced that he voted no, and that there was thus a tie vote—[defeating the bill.]

Mr. ANDREWS, of Kentucky, rose, and claimed the right to vote. He was in the bar, he said, when his name was called.

Here the question of order was raised whether Mr. ANDREWS could vote after the vote had been announced—some contending that, if the Speaker could vote after that announcement, Mr. ANDREWS also had the right; while others contended that the Speaker's vote was provided for under the rules, and that the only time he could vote was after the vote of the House was announced. Such, however, was the noise and confusion prevailing, that it is impossible to give the particulars of this part of the proceedings, in regular succession.

The SPEAKER decided that Mr. ANDREWS had a right to vote.

Mr. WISE insisted that the case was already decided, and referred to a case where the vote was precisely like the present—a majority of one, Speaker Polk voted in the negative; and by making the vote a tie, defeated the bill.

Mr. SAUNDERS referred to the vote in 1815, on the charter of the Bank of the United States, when Mr. Speaker Cheves, voting in the negative, made a tie vote, and thus defeated the bill.

Mr. McKENNA said he would state the facts as he recollected them. After the vote was taken the Speaker announced it to be yeas 103, nays 102, and said the ayes had it.

He (Mr. McK.) then asked what was the next question? and

The SPEAKER replied that it would be on the passage of the bill.

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The SPEAKER replied that it would be on the passage of the bill.

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Mr. McKENNA said, that under this state of the case, he contended that the Speaker had no right to vote, and the gentleman from Kentucky had no right to vote.

Mr. GILMER said the question was, whether the Speaker had a right to announce that the vote was decided in the affirmative, as stated by the gentleman from Pennsylvania. The Speaker was bound to announce the vote of the House, and then to give his vote.

Mr. EVERETT rose to a question of order; but there were so many claiming to be heard at the time, that the reporter could not hear what it was.

Order being restored—

Mr. GILMER read the rule, (given above,) and contended that the Speaker had no right to announce the decision of the question till after he had announced the vote to the House, and given his own vote.

The SPEAKER repeated his decision, that Mr. ANDREWS had a right to vote, and that gentleman's name being called, he voted aye.

Mr. STANLY then desired his name to be called; which was done, and he also voted aye.

The SPEAKER then announced the vote on engrossment to be as follows:

YEAS.—Messrs. Allen, Landaff W. Andrews, Sherlock J. Andrews, Appleton, Ayerigg, Babcock, Baker, Barnard, Barton, Beeson, Bidlack, Birdseye, Blair, Boardman, Borden, Briggs, Brockway, Charles Brown, Jeremiah Brown, Burnell, Calhoun, Childs, Chittenden, John C. Clark, James Cooper, Cowen, Cranston, Cushing, G. Davis, Richard D. Davis, Jno. Edwards, Everett, Ferris, Fessenden, Fillmore, Gerry, Giddings, Patrick G. Goode, Gordon, Granger, Gustine, Hall, Halsted, Houck, Howard, Hudson, Hunt, Charles J. Ingersoll, Joseph R. Ingersoll, James Irvin, William W. Irwin, Keim, John P. Kennedy, Robert McClellan, McKennan, Thomas F. Marshall, Samson Mason, Mattocks, Maxwell, Maynard, Moore, Morgan, Morris, Morrow, Newhard, Osborne, Parmenter, Pearce, Plumer, Pope, Powell, Profit, Ramsay, Benjamin Randall, Alexander Randall, Randolph, Read, Ridgway, Riggs, Rodney, William Russell, James M. Russell, Saltonstall, Sanford, Slade, Truman Smith, Sollers, Stanly, Stratton, John T. Stuart, Taliaferro, Richard W. Thompson, Tillinghast, Toland, Tomlinson, Trumbull, Van Buren, Van Rensselaer, Wallace, Ward, Edward D. White, Thomas W. Williams, Joseph L. Williams, Yorke, and Augustus Young—105.

NAYS.—Messrs. Adams, Arnold, Arrington, Atherton, Black, Botts, Boyd, A. V. Brown, Milton Brown, Burke, William O. Butler, Green W. Caldwell, Patrick C. Caldwell, John Campbell, William B. Campbell, Thomas J. Campbell, Caruthers, Cary, Casey, Clifford, Clinton, Coles, Colquitt, Mark A. Cooper, Cravens, Cross, Daniel, Dawson, Dean, Deberry, Doan, Doig, John C. Edwards, Egbert, John G. Floyd, A. L. Foster, Thomas F. Foster, Gamble, Gentry, Gilmer, Goggin, William O. Goode, Graham, Green, Gwin, Habersham, Harris, Hastings, Hays, Holmes, Hopkins, Houston, Hubard, Hunter, John W. Jones, Andrew Kennedy, King, Lane, Lewis, Linn, Littlefield, Abraham McClellan, McKay, McKeon, Mallory, John T. Mason, Mathiot, Mathews, Miller, Mitchell, Owaley, Payne, Rayner,

Reding, Reynolds, Rhett, Rogers, Roosevelt, Saunders, Shaw, Shepperd, Shields, William Smith, Sprigg, Steenrod, Summers, Sumter, John B. Thompson, Jacob Thompson, Triplett, Turney, Underwood, Warren, Washington, Watterson, Weller, James W. Williams, Christopher H. Williams, Wise, and Wood—102.

The question now coming up on the passage of the bill—

Mr. McKENNA demanded the previous question, under the operation of which the bill was passed—as follows:

YEAS.—Messrs. Allen, Landaff W. Andrews, Sherlock J. Andrews, Appleton, Ayerigg, Babcock, Baker, Barnard, Barton, Beeson, Bidlack, Birdseye, Blair, Boardman, Borden, Briggs, Brockway, Charles Brown, Jeremiah Brown, Burnell, Calhoun, Childs, Chittenden, John C. Clark, James Cooper, Cowen, Cranston, Cushing, Garrett Davis, Richard D. Davis, John Edwards, Everett, Ferris, Fessenden, Fillmore, Gerry, Giddings, Patrick G. Goode, Gordon, Granger, Gustine, Hall, Halsted, Houck, Howard, Hudson, Hunt, Charles J. Ingersoll, Joseph R. Ingersoll, James Irvin, William W. Irwin, Keim, John P. Kennedy, Robert McClellan, McKennan, Thomas F. Marshall, Samson Mason, Mattocks, Maxwell, Maynard, Moore, Morgan, Morris, Morrow, Newhard, Osborne, Parmenter, Pearce, Plumer, Pope, Powell, Profit, Ramsay, Benjamin Randall, Alexander Randall, Randolph, Read, Ridgway, Riggs, Rodney, William Russell, James M. Russell, Saltonstall, Sanford, Slade, Truman Smith, Sollers, Stratton, John T. Stuart, Taliaferro, Richard W. Thompson, Tillinghast, Toland, Tomlinson, Trumbull, Van Buren, Van Rensselaer, Wallace, Ward, Edward D. White, Thomas W. Williams, Joseph L. Williams, Yorke, and Augustus Young—105.

NAYS.—Messrs. Adams, Arnold, Arrington, Atherton, Black, Botts, Boyd, Aaron V. Brown, Milton Brown, Burke, William O. Butler, Green W. Caldwell, Patrick C. Caldwell, John Campbell, William B. Campbell, Thomas J. Campbell, Caruthers, Cary, Casey, Clifford, Clinton, Coles, Colquitt, Mark A. Cooper, Cravens, Cross, Daniel, Dawson, Dean, Deberry, Doan, Doig, John C. Edwards, Egbert, John G. Floyd, A. L. Foster, Thomas L. Foster, Gamble, Gentry, Gilmer, Goggin, William O. Goode, Graham, Green, Gwin, Habersham, Harris, Hastings, Hays, Holmes, Hopkins, Houston, Hubard, Hunter, William Cost Johnson, Cave Johnson, John W. Jones, Andrew Kennedy, King, Lane, Lewis, Linn, Littlefield, Abraham McClellan, McKay, McKeon, Mallory, John Thomson Mason, Mathiot, Mathews, Medill, Miller, Mitchell, Owaley, Payne, Rayner, Reding, Reynolds, Rhett, Rogers, Roosevelt, Saunders, Shaw, Shepperd, Shields, William Smith, Sprigg, Steenrod, Summers, Sumter, John B. Thompson, Jacob Thompson, Triplett, Turney, Underwood, Warren, Washington, Watterson, Weller, James W. Williams, Christopher H. Williams, Wise, and Wood—103.

So the bill was passed.

Mr. McKENNA moved a reconsideration of the vote just taken—rejected without a count.



AUGUST, 1842.]

*The Mandamus to the States.*

[27TH CONG.]

IN SENATE.

TUESDAY, August 23.

*The Mandamus to the States.*

Mr. CRITTENDEN moved to take up the House bill No. 210, entitled an act to regulate the taking of testimony in cases of contested elections, and for other purposes.

So the orders of the day were postponed, and the bill was taken up, as in Committee of the Whole.

Mr. CRITTENDEN said, the first two sections related to the manner of certifying the election of Representatives, in conformity with an existing law lately passed, prescribing the mode and manner of elections. The residue of the bill related to the evidence to be adduced in cases of contested elections.

The first part of the bill was to prescribe the evidence to be admitted as authentic, by the Clerk of the House of Representatives, on members presenting themselves for seats in that House. Mr. C. stated, at some length, his views in relation to the necessity of this measure.

The last section was to adjust a much contested point, as to the rights of the parties contesting an election to pay and expenses. This he explained by the reading of the 27th section of the bill, and commenting on its several provisions. He argued that this act was rendered imperatively necessary, in consequence of the law regulating elections by single districts. If there was any thing blamable, it was to be sought in that law, not in this. He was told gentlemen intended to contest this bill, and to denounce it as an outlawry of the States. If it pleased gentlemen to indulge themselves in hyperbolic denunciations, they were welcome to it, for him.

Mr. WALKER said, the first objection that he made to the bill, was, that it was a violation of the constitution, which assigned to each House of Congress the exclusive right to judge of, and determine upon, the qualification, election, and return of their own members. Congress was not, and could not be the proper judge of the return and qualification of members of the House of Representatives. The Senate had no right to prescribe to the House on what terms they should permit their members to take their seats in that House. The constitutionality of this law, and the power of Congress to pass it, would be tested by this consideration:—Suppose the members from a State which elects by general ticket, should present themselves, and produce their returns, duly certified by the Governor of the State, under the broad seal of the State: the House to which they are chosen must necessarily be the judge of their returns; because the constitution specifically declares that it shall be the sole and exclusive judge. And what do you propose by this bill? You propose to reject them under certain circumstances. Is not this, in effect, to outlaw them? The term is an expressive term; and it is directly applicable.

It is an outlawry, not merely of the members elect, but of the people who elect them. It is a clear and flagrant violation of the constitution. If the States must be disfranchised, (a matter surely which the Senate ought to deplore,) when the calamity comes, let it not be inflicted by the Senate. If the members of a State are to be expelled from the 28th Congress, let not the edict of expulsion come from the Senate; and, above all, in advance. If the catastrophe must take place, let the disfranchisement be inflicted by that tribunal to which the constitution has given exclusive jurisdiction in the matter—the House itself. And suppose the House choose to admit the members elected: what will your law be worth? Can you expel them? will your law drive them out? will it disorganize the House of Representatives? It will have no effect or operation whatever. It will be a nullity, and therefore unconstitutional; because every constitutional law can be enforced. This will be a mere *brutum fulmen*—of no more value than so much blank paper. But there were other matters connected with this bill, which rendered it highly inexpedient and improper. [Mr. WALKER here read and commented upon that portion of the bill in relation to the testimony.] Mere hearsay evidence—an inquiry into the political character and opinions of the voter—general and vague impressions as to his political opinions, were to be taken as evidence whether he voted for or against a particular candidate. Was not this a violation of the great fundamental principles of the common law? It was a settled rule of evidence in every court, that mere hearsay evidence cannot be received as testimony.

The bill was a violation of the constitution in another particular. It not merely authorized, but it required and compelled certain officers under the State Government to perform certain duties, as if they were officers amenable to the power of the Federal Legislature. Upon this point, the supreme courts of the States, where the question had arisen, had decided (and the decision had been affirmed by the Supreme Court of the United States) that State officers—and particularly justices of the peace—could not be compelled to perform any act in obedience to the mandate of the Federal authorities. He denied that Congress had any right, under the constitution, to vest in justices of the peace, as this bill attempted to do, the power to fine and imprison.

Mr. WOODBURY said he would not, at this late day, have obtruded himself a moment on the indulgence of the Senate, had not the State which he, in part, represented, spoken most strongly on this subject. Its Legislature had, with great deliberation, pronounced the clause in the apportionment bill, directing the States to make single districts, both inexpedient and unconstitutional. In that, he had been fortified as to similar views, expressed on the same point, on a former occasion. He regretted

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that a prominent object in the bill now before us is to enforce that unwarrantable clause. It is, therefore, void. It seeks to carry into effect a mandate issued to a sovereign State, which you are unauthorized to issue, and to do it by disfranchising not only the State, but its people, if they have the firmness and independence to protect their own rights. Had the clause in the apportionment bill been only advisory, and been so treated by Congress, the present measure should not be resorted to. But this measure treats it as an order—a dictation; and now tries to impose penalties on State disobedience. In this way the States are to be considered as our servants, and we their masters.

I concede that Congress had power to make districts itself, if the States neglected their duty, and the elective franchise of the people were likely to be lost. But no such cause existed for its interference. And if there had, Congress should have finished its own business—carried out its own districting—and not have dictated to the States, that the latter should obey or perform what belonged to the former to do, in fear of pains and penalties under any omission. In that case, we should have witnessed no such outrages as have recently occurred amongst the friends of that law in Ohio, in attempting to defeat a districting under it.

Another palpable violation of the constitution in this measure, arises from its breach of the provision in the 5th section, that "*each House shall be the judge of the elections, returns, and qualifications of its own members.*" Yet, by the first portion of the present bill, you are unwilling, and you refuse to leave the House of Representatives to judge of the elections and returns of its own members. On the contrary, you yourselves, in conjunction, undertake to judge for them. You invoke the President, also, to unite with you in judging for them.

Grant, then, that, after an organization, and after one or two sessions have nearly expired, the House may be allowed to admit the proper persons to their seats; yet you hereby direct for them who shall be admitted in the first instance, and in the choice of Speaker, and all officers, and in making rules; as well as, afterwards, in half the legislation of the whole Congress. On one occasion lately, I believe, the right of election of members was not settled till far into the second session. What power have you to order a defunct Clerk whom he shall permit to vote? What right to say he shall admit any members, when the constitution provides that the members shall settle the question for themselves?

Mr. WRIGHT said he had expressed his views somewhat at large on the subject of coercing the several States of this Union, when the apportionment bill was under discussion. But circumstances had since transpired, which strengthened his opinions, and went far to verify the predictions he then made. He

alluded to the recent action of several States in reference to the apportionment act. He had undertaken to say, when that act was on its passage, that it would not, and could not, control the States in their elections of Representatives. For this declaration he was, at the time, designated as a nullifier. If his opinions on that subject entitled him to the appellation, several of the States had since declared themselves of the same opinion. They had virtually annulled that act; and so they would this, if it should become a law.

Mr. BERRIEN observed that, when the apportionment bill was before the Senate, he had stated his views so fully, that it would be unnecessary now to repeat arguments he then urged in vain, to induce some modification of those provisions he considered obnoxious to the States, and most inexpedient in themselves. He had not disputed the power of Congress to interfere in the manner pointed out in the constitution; but he had doubted, and still continued to doubt, exceedingly, the expediency of exercising that power. As the Senate was fully aware of his sentiments on the subject, he would not occupy further time than was necessary to move the following amendment, to come in at the end of the first section:

*And provided further, (in substance,) That nothing in this section, or in the act therein referred to, shall be held to extend to the election of any person who shall be chosen a Representative to the 28th Congress in any State, in which, by the laws of such State, the election for Representatives to Congress is required to be made by general ticket, and where the election has been held, or may be held, in accordance with such State laws.*

On this amendment he called for the yeas and nays; which were ordered.

Mr. CALHOUN said, without entering into the question whether the original law was a wise one, or whether this was a wise one, it was very well known to the Senate that, in four or five of the States, it was impossible to comply with them. He himself represented, in part, a State so situated that it was almost impossible they should adopt the law without occasioning much internal discord. Under the circumstances of the whole case, he did hope the Senate would pause, and not press upon the States an enactment of this kind, dangerous in its consequences, and, at the same time, of doubtful utility.

Mr. LINN said he was very glad the Senator from Georgia had introduced this amendment. It was but common justice to some of the weaker States. Can any thing be more unjust than the manner in which Missouri is to be treated? That State, in the regular course of its legalized policy, proceeded to the election of its members of Congress for the next Congress of the United States. The members thus elected will come to the seat of Government at the appointed time, to take their seats, as insured to them by the constitution. Are they to have the doors of the House of Repre-

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representatives shut in their face by the Clerk of a former Congress, because they are representatives of a whole State, and not of its fragments? Are they to be ejected thus unceremoniously by the Clerk of the House, in spite of the rights secured to them by the constitution? This, indeed, will be an exhibition of unconstitutional usurpation, growing out of the legislation of this Congress, extraordinary even for our remarkable above all preceding Congresses for its violation of constitutional rights. Well may sovereign States date from this Congress, as from a fatal epoch. It was not alone by a *habeas corpus* act that their sovereignty was paralyzed: now they are deprived of the very principle of representation.

Their right to a voice in the councils of the nation is to be decided by the fiat of a Clerk of the House of Representatives. This, indeed, is plunging deeply into the bowels of the system, to destroy all vitality, under the pretence of reaching an imagined morbid part. It is time for gentlemen to see that it is impossible for them to go on much longer in this way.

The amendment of Mr. B.'s was modified, and adopted with others, and the bill ordered to be engrossed.

THURSDAY, August 25.

*The Tariff Bill.*

The bill to provide revenue from imports, and to change and modify existing laws imposing duties on imports, and for other purposes, was taken up as in Committee of the Whole, with thirty-one amendments recommended by the Committee on Finance.

Mr. EVANS hoped the Senate would proceed with the amendments in their regular order.

The CHAIR announced the first amendment to be, to change the expression "the day and year before mentioned," into "the passage of this act."

Mr. EVANS pointed out that there were several verbal amendments, to the same effect, throughout the bill, the question on which might be taken altogether.

These amendments were adopted.

The next amendment was to substitute *four* cents per square yard on cotton-bagging, or its substitute, imported, for *five* cents in the original bill.

Mr. WALKER moved to amend the amendment by substituting "three" cents, for "four."

Mr. KING observed that the effect of the high duty proposed would be to exclude from this market every species of foreign cotton-bagging. This would then be a prohibitory duty. Now, he was willing that the bagging manufacturers of Kentucky and Missouri should have a fair protection, not detrimental to revenue, or to other industrial interests of the country. He was willing to let them enter the Southern market with every advantage

against foreign competition. But he would not, for the purpose of merely giving a bounty to a few individuals, consent to lay an extravagant duty, calculated to cut off all foreign competition, and exclude altogether the foreign fabric. Mr. K. read from a table, which he held in his hand, many statistics to show the quality and price of the foreign fabric, contrasted with the domestic. He also read a statement, prepared by no unfriendly hand to protection, showing the comparative advantage of high and low rates of duty. His own experience satisfied him that, under a fair competition in prices, Kentucky bagging would always command a preference in the Southern market, as long as the usually good article from that State was produced. Last year, in consequence of rivalry, an inferior article was produced, and the interests of the Kentucky bagging manufacturers suffered; because they could not, as usual, command the preference in the market.

He stated that in the neighborhood of Louisville, the old mode of spinning and weaving by hand had been superseded by machinery on an extensive scale. The reduced price in the Southern market is the effect of this competition at home between machine labor and hand labor, and not from competition with the foreign article. The returns for 1839 show that the price of Scotch bagging at the place of manufacture was twelve and a half cents; of English bagging, thirteen cents; and of Russian, fourteen cents—the article being better than the Scotch or English. If to these be added the charges of importation, the foreign article cannot now, even if free of duty, compete with Kentucky bagging, manufactured by machinery, at a cost not exceeding two or three cents a yard, so long as the latter article maintains its quality, and thereby commands the market. Kentucky bagging, manufactured by machinery, can now be sold at ten cents a yard, and leave as much profit to the capitalist as fifteen or sixteen cents for the article manufactured by hand labor. It is evident that in a year or two the Kentucky manufacturers can, without any protection, command the whole market. But if, by mistaken legislation, a duty on the foreign article is imposed which will put competition out of the question, the cupidity of the manufacturers will be so stimulated, that the cotton planters, in self defence, will be driven to the necessity of adopting expedients which will ruin the Kentucky manufacturers.

Mr. CALHOUN observed that, judging by the statements so ably made by the Senator from Alabama, Kentucky bagging, by the improvements in machinery, can now be made and offered in the market for ten cents per yard. Hence, then, it was clear that even a duty of three cents per square yard on the foreign article would amount to a total prohibition, and would produce not one cent of revenue. He submitted to the Senate, if the Kentucky

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bagging can be made for 10 cents, and the foreign article cannot be made for less than 12½ cents, (to which the cost of import must be added)—whether it was reasonable to suppose that a single yard of the foreign article would be brought into market. Did not every one see that, instead of the sum estimated by the Secretary of the Treasury to be derived from bagging for revenue, there would not be one cent of revenue accruing to the treasury, even at three cents per square yard duty?

Mr. MOREHEAD had not changed his opinions, nor were they likely to be changed by the observations of the Senator from South Carolina, that three cents duty would be prohibitory, and produce no revenue; or of the Senator from Alabama, that he was willing to protect the home manufacturers, provided it could be done without interfering with revenue. He could tell both Senators they were mistaken; and that neither three cents nor five cents would give adequate protection to the Kentucky manufacturers.

The question was then taken on Mr. WALKER's motion to substitute 3 cents for 4, and negatively.

Mr. WALKER then moved to substitute 8½ cents per yard, and on this he called the yeas and nays.

The rate he now proposed was reported by the Finance Committee, when the bill was last before the Senate. It was the rate imposed by the act of 1832; and, under the compromise act, it continued to fall, till it reached 2 9-10 cents.

The yeas and nays were then ordered.

The question was taken on Mr. WALKER's amendment, to substitute 8½ cents for 4, and resulted in the affirmative—yeas 25, nays 22.

The amendment as amended was then adopted.

FRIDAY, August 26.

*The Tariff Bill.*

The bill to provide revenue from imports, and to change and modify existing laws imposing duties on imports, and for other purposes, was taken up, as in Committee of the Whole, for further consideration; the amendments proposed by the Committee on Finance having been disposed of yesterday.

Mr. MERRICK moved to insert at the end of the bill an additional section, as follows:

*And be it further enacted,* That whenever the President of the United States shall receive satisfactory evidence that the grain, flour, salted provisions, and unmanufactured tobacco, of the growth and production of the United States, exported from the United States, are admitted at a rate of duty not exceeding 25 per cent. ad valorem, into the several ports of any European state or kingdom, he shall make proclamation thereof to the people of the United States, and thenceforward the duties imposed by this act upon all articles the growth and produce of such state or kingdom so

admitting such grain, flour, salted provisions, and manufactured tobacco, shall be reduced to the rate of 25 per cent. ad valorem.

Mr. EVANS hoped the Senate would not consent to adopt an amendment, the effect of which would be to allow any—perhaps the most inconsiderable—state of Europe to make a tariff for this country, to be extended to all other nations with which it has treaties of commerce.

Mr. MERRICK denied that the amendment would have any such effect.

Mr. EVANS insisted that it would.

Mr. BENTON said the proposition of the Senator from Maryland (Mr. MERRICK) was a large one, involving great consequences, and reviving a principle as old as the Government. Our constitution contained two provisions on the subject of foreign commerce—one to lay duties on imports, for revenue; the other to regulate commerce with foreign nations. The former of these powers had been executed from the establishment of the Government; the latter had not been executed at all. Mr. Madison attempted it in 1793, in his celebrated resolutions of that day, which were defeated by the British interest. Mr. Jefferson recommended it in his report on foreign commerce, when he was Secretary of State; and, acting on their suggestions, and endeavoring to give an effect to an important clause in the constitution, he, (Mr. B.,) a few years ago, had digested an amendment framed on Mr. Madison's resolutions, and the study of the speeches and reports of that day, to establish the system of discrimination and reciprocity in trade with foreign nations: discriminating between nations, according to their treatment of our commerce, and reciprocity in the rates of dues. The principle of Mr. Madison's resolutions was, that a discrimination of 10 per cent. in the duties should be made in favor of the commerce of the nations which admitted our products on favorable terms; and that this principle, established by law, should be carried into effect by treaties. This was the principle of Mr. Madison's resolutions; and in the proposition which he offered a few years ago, this principle was sought to be established in the mode he proposed. His (Mr. B.'s) proposition was not successful, although better matured than the proposition now offered by the Senator from Maryland, or lately offered by the Senator from Ohio, (Mr. TAPPAN;) he said better matured, without arrogating any merit to himself, except the merit of copying a great master—for he only copied Mr. Madison. He was, of course, in favor of the general object of the amendment offered, but it was not in the appropriate form, and could not be appropriately framed and guarded in any extemporaneous movement in this closing scene upon the passage of a revenue or tariff bill. It was a large subject, requiring a separate consideration in itself: a consideration requiring a view

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of the whole existing commerce, both foreign and domestic, and of all our commercial treaties with foreign powers. A subject so large as this would require time for deliberation and for action; and we had time for neither now. It would also require a separate consideration, and could be adopted at any time, without being made a part of a tariff bill. It would do best in a bill by itself: he was, therefore, against doing any thing on the subject now, and taking it up by itself at the next session.

Mr. MERRICK modified his amendment, so as to limit its effect to reciprocity, by adding the following:

Unless, under the provisions of existing treaties, said reductions of duties will inure to the benefit of some other foreign country not making the reciprocal reduction in its ports; and, in all such cases, the President is hereby requested to take the earliest means of terminating the obligations of any such treaty so conflicting with these principles of reciprocity.

After a few remarks from Messrs. HUNTINGTON and WOODBURY,

The question was taken on Mr. MERRICK's amendment, and decided in the negative—yeas 6, nays 29.

## HOUSE OF REPRESENTATIVES.

FRIDAY, August 28.

*The Distribution Act.*

Mr. TRUMAN SMITH moved to take up bill No. 604; which was agreed to by a majority of 92 to 68, taken by tellers.

The Clerk then read the bill as follows:

A BILL to repeal the proviso to the 6th section of the act entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights," approved September 4, 1841.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proviso to the 6th section of the act entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights," approved September 4th, 1841, be, and the same is hereby, repealed.

After remarks by Messrs. ARNOLD, COOPER, and WISE,

Mr. ANDREWS, of Kentucky, moved that the committee rise, and report the bill to the House. The question was carried; and the committee rose and reported the bill.

Mr. ANDREWS, of Kentucky, moved the previous question on the engrossment of the bill, but withdrew it at the request of

Mr. THOMPSON, of Indiana, who addressed the House at some length in reply to Mr. WISE; after which, he renewed the call for the previous question, under the operation of which the bill was ordered to be engrossed for a third reading.

The bill was then passed—as follows:

YEAS.—Messrs. Adams, Allen, Landaff W. Andrews, S. J. Andrews, Appleton, Ayerigg, Babcock, Baker, Barnard, Barton, Birdseye, Blair, Boardman, Borden, Botta, Brockway, Milton Brown, Jeremiah Brown, Burnell, Calhoun, Thomas J. Campbell, Caruthers, John C. Clark, James Cooper, Cowen, Cranston, Garrett Davis, Deberry, John Edwards, Everett, Fessenden, Fillmore, Gentry, Giddings, Goggin, Patrick G. Goode, Graham, Granger, Green, Hall, Halsted, Howard, Hudson, Joseph R. Ingersoll, James Irvin, William Cost Johnson, Isaac D. Jones, John P. Kennedy, Linn, McKennan, Thomas F. Marshall, Samson Mason, Mathiot, Mattocks, Maxwell, Maynard, Mitchell, Moore, Morgan, Morris, Morrow, Osborne, Owsley, Pearce, Pope, Powell, Ramsay, Benjamin Randall, Alexander Randall, Randolph, Rayner, Ridgway, Rodney, William Russell, James M. Russell, Saltonstall, Shepperd, Simonson, Slade, Truman Smith, Sollers, Sprigg, Stanly, Stratton, Alexander H. H. Stuart, John T. Stuart, Summers, Richard W. Thompson, Tillinghast, Toland, Tomlinson, Triplett, Trumbull, Underwood, Van Rensselaer, Wallace, Warren, Washington, Edward D. White, Thomas W. Williams, Christopher H. Williams, Joseph L. Williams, Yorke, and Augustus Young—104.

NAYS.—Messrs. Arnold, Arrington, Atherton, Bidlack, Boyd, Aaron V. Brown, Charles Brown, Burke, S. H. Butler, Wm. O. Butler, Green W. Caldwell, P. C. Caldwell, John Campbell, Cary, Casey, Clifford, Clinton, Coles, Mark A. Cooper, Cross, Cushing, Daniel, Richard D. Davis, Dawson, Dean, Doig, John C. Edwards, Egbert, Ferris, John G. Floyd, Thomas F. Foster, Gamble, Gerry, Gilmer, William O. Goode, Gordon, Gustine, Gwin, Habersham, Harris, Hastings, Hays, Holmes, Hopkins, Houck, Houston, Hubard, Hunter, C. J. Ingersoll, Cave Johnson, John W. Jones, Lewis, Littlefield, Abraham McClellan, Robert McClellan, McKay, Malory, John Thomson Mason, Medill, Miller, Newhard, Oliver, Parmenter, Payne, Plumer, Proffit, Reding, Reynolds, Rhett, Riggs, Rogers, Saunders, Shaw, Shields, William Smith, Steenrod, Jacob Thompson, Turney, Van Buren, Ward, Watterson, Weller, James W. Williams, Wise, and Wood—86.

Mr. ANDREWS, of Kentucky, moved a reconsideration of the vote just taken; but the motion was rejected.

## IN SENATE.

SATURDAY, August 27.

*The Distribution Act.*

The bill which had passed the House repealing the 6th section of the distribution act, which suspends the operation of said act, when it shall be necessary to lay a higher rate of duty than 20 per cent. to support the Government, was taken up, and read the first time; and the question being, "Shall the bill be read the second time, with a view to reference?"

Messrs. WOODBURY and ALLEN objected.

The CHAIR said, objection being made, the bill cannot, under the rule, be read a second time to-day.

Mr. CRITTENDEN submitted whether it was not unusual to object to the reading of a bill

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with a view to reference, when the effect of it might be to defeat the bill.

Mr. ALLEN said if it was a matter of feeling and courtesy, he certainly would not interpose objections. But this was an important measure which had agitated the country for a long time, and he thought it his duty to endeavor, by all means in his power under the rule, to defeat it.

*The Tariff Bill.*

The Senate having, on motion of Mr. EVANS, taken up the bill to provide revenue from imports, and to change and modify existing laws imposing duties on imports, and for other purposes—the question pending being on ordering the amendments to be engrossed for a third reading,—

Mr. BUCHANAN said he owed it to his own peculiar position in relation to this bill, as well as to the importance of the interests which it involved, to address the Senate for a few minutes upon the subject under consideration. He had never felt himself placed in a more embarrassing position than that which he occupied at the present moment. In this situation he had anxiously endeavored to discover the path of duty; and having, as he believed, succeeded, he had determined to tread it, without fear of consequences.

Sir, (continued Mr. B.,) the only alternatives now presented to the Senate, are whether we shall pass this bill, or leave the country in its present deplorable condition? Every substitute proposed for the bill has failed; and it is morally impossible that any other measure can now be introduced in its stead, with the least hope of success. The last hour of the session is rapidly approaching; and we must speedily resolve either to pass the present bill, or to do nothing.

In what I intend to say, I shall studiously refrain from arousing any political or personal feeling; but shall be content simply to place myself in that position before my own constituents and the country where I desire to stand.

Let us then, for a few moments, consider the two horns of the dilemma—the two alternatives presented to the Senate. If you shall adjourn without passing any bill, what will be the consequences? In the first place, you will then continue, and most probably perpetuate, the distribution of the proceeds of the public lands among the several States. This is inevitable, if you should not raise duties on imports above twenty per cent. Now, sir, whilst I freely accord to my Whig friends the utmost honesty of purpose in clinging to this distribution, they will allow me credit for an equal degree of sincerity, when I declare that, in my opinion, it is one of the most unwise—nay, dangerous—measures which has ever been adopted by Congress. I do not intend to go into the general question at present—having already, during the present session, fully pre-

sented my views upon the subject. Thus much, however, I shall declare—that, if we squander away our most magnificent inheritance of the public lands, it is my firm belief that we and our descendants will regret the deed to the latest posterity. Whilst we retain this glorious fund, purchased by the toils and blood of our revolutionary ancestors,—let foreign war come when it may; let our commerce be swept from the ocean by a superior naval power; and let there no longer be any revenue from customs,—still shall we have a never-failing resource in the revenue from the public lands to assure our independence and our safety. This consideration alone is sufficiently powerful to induce me to vote for almost any bill which would arrest this fatal distribution. I would consider almost any bill (and, in several particulars, I dislike this bill as much as any Senator on this floor) a triumph which shall restore the land fund to the treasury of the United States, and settle this agitating question. I introduce this subject, not for the purpose of exciting political debate, but for that of presenting myself in my true attitude before the people of the country.

Again: if we adjourn without passing any bill, what will be the condition in which we shall leave the treasury of our country? Why, sir, many of the ablest lawyers throughout the Union, as well as a large majority in both Houses of Congress, hold the opinion that there is now no law in existence under which any revenue can be collected. This is the almost universal opinion of the Whig party; and it is also the opinion of my friend from South Carolina, (Mr. CALHOUN,) on whose judgment I am disposed to place great reliance. This, I confess, is not my opinion; but experience has taught me to distrust my own judgment, especially upon legal questions, when it comes in conflict with that of wiser and abler men. Should they prove to be right—if we adjourn without passing any bill, we shall fix a deep and disgraceful blot upon the character of the country, which time could not efface.

But, even suppose it should hereafter be decided that duties can be collected under existing laws: the consequences would be almost as appalling. Every dollar of duty which is now paid, is paid under protest; and, to say the least, it is extremely doubtful whether every cent of revenue that is now received at the custom-house must not eventually be refunded. The whole scanty and deficient revenue of the Government is now in litigation; and if we should adjourn without passing any bill, will continue to be in litigation; and no man knows what will be the result. This is the condition of the treasury of our country at the present moment. Now, sir, is this a condition that any man—any American citizen—any American patriot—can contemplate without feelings of shame, mortification, and sorrow?

And how stands our national credit at the present moment? In that abject posture to

which our reckless course has reduced it. Sir, public credit is the very lifeblood of the nation. To restore it, we ought to make every sacrifice consistent with honor. We had ever maintained our credit unsullied, from the time when we sprung into existence as a nation, until the period when unfortunate dissensions arose between the dominant party and the President. *Now*, our treasury is insolvent; the public creditors have large demands against it, which it is unable to meet; the state of things is daily growing worse; and there is even danger that the operations of the Government may be wholly suspended: and yet we propose to adjourn, leaving the country in this fearful, this deplorable condition. Bad, indeed, must be the bill presented before me, if it be, as it is in this case, the only alternative for these evils, for which I should not vote. I confess I shrink from the responsibility of recording my vote against this bill, when its fate may, and most probably will, depend upon my single voice.

I have never, in the whole course of my life, read any publication with deeper feelings of mortification than an extract from an article in a London paper, which I have just seen in the *National Intelligencer* of Thursday last. In what estimation is the credit of this great and glorious Republic now held on the other side of the Atlantic? That proud and arrogant nation, to whom you have sent a special messenger to beg for a loan to supply your exhausted treasury, has received your message with contempt and scorn. The language of the article is so strong and so unjust, that I shall not repeat it in the American Senate. Your messenger is treated with contempt, when he presents himself before the British capitalist. He is told that the credit both of the States which compose the Union, and of the Union itself, is so low, that no money can be borrowed upon the pledged faith of the United States. In the public journals, capitalists are forewarned against him, and cautioned not to render themselves the dupes of our Government. And this in England! How mortifying to the honest pride of every true-hearted American!

Now, I maintain that the first duty of an American statesman is to make any honorable sacrifice of opinion which may be necessary to sustain the credit and character of his country. Without the passage of this very bill—for we can obtain no other—we shall be disgraced at home, and still more disgraced abroad. Without it, we descend from our lofty elevation, and tarnish that high character which it is our duty to maintain at every sacrifice.

But the worst has not yet arrived. If Congress should adjourn without passing any revenue bill, after having already appropriated twenty-four millions of dollars, in what condition will the Government itself be placed? It will be destitute of the means to meet your own appropriations; and it may not even be able to keep your navy afloat, or to pay the officers and

soldiers of the army. We shall leave behind us a bankrupt treasury, and shall return home to meet a ruined people. With what joy such disastrous events would be hailed by the enemies of our free institutions throughout the world! whilst the friends of freedom in every land, who have been looking to our example as their star of hope amidst the gloom of despotism, would receive the dismal intelligence with the most melancholy forebodings.

Without adverting further to the condition in which we should leave the treasury and the Government of our country, let us take a hasty glance at the consequences to large classes of our best and most useful citizens. If you pass no bill, you will ruin a very large portion of all the mechanics and artisans throughout the country. These are not to be counted by hundreds or by thousands; but by hundreds of thousands; and for intelligence and devotion to country, they are not surpassed by any other class in the community. They earn their daily bread by the sweat of their face, and are justly entitled to our sympathy and kindness. Under the uniform twenty per cent. *ad valorem* duty of the compromise law, they must abandon their business, or be deprived of employment. I have been informed, from numerous and authentic sources, that sore distress already prevails among them, especially in our large Atlantic cities; and that their prospects for the next winter are terrible. The price of mechanical labor is much cheaper in Europe than in this country; and, therefore, if you impose no higher rate of duty upon the made-up article, than upon the material of which it is composed, you must destroy their business. Impose the same rate of duty upon foreign cloth and upon ready-made clothing—upon foreign leather and upon boots and shoes—and your tailors and shoemakers have no incidental protection whatever. And why? Because, notwithstanding your duty, their labor comes into equal and direct competition with the pauper labor of foreign countries, and we shall be supplied with ready-made clothing and with boots and shoes from abroad, at lower prices than they can by possibility be afforded at home. I might greatly extend this list of mechanics, by adverting to hatters, saddlers, and other tradesmen; but I forbear. Whatever, then, may be your duty upon the articles which these mechanics work up, you must discriminate by imposing a higher duty upon the article when prepared for use by the foreign mechanic, or you must deprive our own mechanics of employment. Such a result would be deprecated by every Senator upon this floor. The present bill makes the necessary discrimination.

I shall not now dwell upon the distress which would be produced throughout my own State, among the laboring classes who have heretofore found employment at our numerous furnaces and forges, and in our coal-mines. From their habits of life, they are in a great degree

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unfitted for other employments; and even if this were not the case, there is no demand for their labor in any other pursuit. My heart sickens at the prospect of misery and distress which will visit them and their families throughout the approaching winter, if no bill should pass. But I have heretofore adverted to this subject more at large, and shall not farther pursue it at the present.

I have thus hastily sketched one side of the picture; and now let me hasten to the other. I admit, most cheerfully, that the bill is extravagant in the protection which it affords; and, in some instances, is altogether prohibitory. It is a bill of which I do not approve, and for which I would not vote, were it not for the present unparalleled condition of the existing law, the treasury, and the country. I had earnestly hoped that it might be modified and amended by the Senate in such a manner as to render it more acceptable; but in this I have been utterly disappointed. No reduction of duties whatever has been made upon any of the protected articles, with the exception of iron—an article in which Pennsylvania is deeply interested—and one cent per square yard on cotton-bagging. The duties upon hammered, rolled, and pig iron have been reduced considerably below the standard of the act of 1832; but of this I do not complain. I do not desire that any manufacture of Pennsylvania should be protected by a prohibitory duty. All I ask is that such incidental protection may be afforded as will enable the manufacturer to live. I ask no more, notwithstanding the annual value of iron and its manufactures alone, produced in that State, has been estimated, by those who understand the subject, at more than twenty-one millions of dollars—a greater amount than the whole value of cotton produced in any State of this Union. No Senator can suppose that I would patiently witness the sacrifice of such a vast interest in my native State. The duty on iron in bars is so far from being prohibitory, that in 1839, when it was nearly the same as it would be under the present bill, it alone yielded to the treasury more than two millions of dollars. I venture to predict that bar iron, under this bill, (should it become a law,) will yield a greater amount of revenue, in a fair proportion, than any other article in the whole catalogue. Sir, most of the other great interests of the country have received a great, and many of them a greater, protection than was afforded them under the act of 1832. If, therefore, I were to look at this bill in a sectional point of view; or if it were presented to me in any other aspect than as a means of saving the country from impending distress, I should most certainly vote against its engrossment.

Mr. CHOATE observed that it was not his intention to occupy more than ten minutes of the time of the Senate. He would briefly state the reasons which had brought him to the conclusion of voting for this bill. He felt rejoiced

that, as a Whig and a politician, he could support this measure as a purely Whig measure. He could not hail it with the same exultation as if it were in its original shape; but such as it was, he took it as the best that could now be effected. It would do much, even now, at the eleventh hour, in its effects on the industry of the country; and as a measure of relief to the Government, to reanimate and reassure the Whig party.

He could not, however, exult with the Senator from Pennsylvania; for that which was a source of exultation with that Senator, was to him and his friends a great sacrifice. The Senator from Pennsylvania was consoled in voting for this bill, because it defeated the great Whig measure of distribution. But he (Mr. C.) derived consolation—not, indeed, from the same source, for no one could deplore more than he did the necessity of sacrificing distribution—but from the fact that, instead of the Whig party being defeated in two measures—purely Whig measures—it would succeed in carrying one, at least; and that one would have the effect of cheering many a drooping heart, and gladdening many a fireside, where misery and destitution now prevail. Rejoiced would he have been if both measures could have been achieved; but as it was no longer doubtful that to insist upon both was to defeat both, he was satisfied that true policy required the postponement of the one, for the sake of securing the blessings of the other. As it was come to a choice between them, it could be considered no detriment to the measure of distribution to say that its immediate consummation was less urgent than the measure now before the Senate. This is urgent and indispensable; it is an indispensable duty; the Government cannot exist without it; the languishing and prostrate industry of the country must perish, if it is not passed. It may not be every thing the country wishes for and wants; but it is something; and that something is important, and will effect much good. It is, besides, all that can, at this momentous crisis, be obtained; and these were reasons sufficient to influence him, and satisfy him that it was his duty to support it. All must see the importance of the crisis. A whole session of unexampled length had passed away, without any thing efficient having been done to accomplish the great and leading business of the session—the adjustment of the tariff.

This was the great work which the country expected at the hands of the Whig party. It had not been neglected, though delayed till a late period of the session, but even then, what had been done had been rendered nugatory by a power they could not control. The desire to carry two concurrent measures was said to be the cause of this failure. A different aspect of things was then presented. Things should be viewed as they really stood. The Government was in a state of destitution; there was no revenue, for the Whig party, which had the



majority in Congress, believed there was no existing law for the collection of revenue; public credit was depressed and unavailable; the industrial classes were in danger of being reduced to utter destitution; and one great and beneficent measure could reanimate and reinvigorate them all. Who, then, could doubt that it was a duty to sacrifice much for the attainment of that great measure of relief? It was a measure due to the Government and to the country alike.

Mr. MERRICK, in reply to the appeal made to him by the Senator from Massachusetts, observed that, according to his understanding, that Senator took an erroneous view of the subject, and neglected to look at the other side of the picture, in which his (Mr. MERRICK's) constituents were represented. He had forgotten to consider them, in the deep sympathy and interest which he felt for the industry of his constituents. What is this bill? It is a bill to tax the interests of the agriculturists for the benefit of the manufacturers. This the agriculturists were willing to bear, if they had but their share of the benefits; but do not cast on them the necessity of swallowing the whole bitter draught, and refuse to share with them the sweets.

The CHAIR then put the question, "Shall the amendments be ordered to be engrossed, and the bill read a third time?"—when the yeas and nays were called for, and ordered.

Mr. WRIGHT said he rose, not to make a speech, but to declare that he was about to record his vote in favor of this bill—a declaration which, it pained him to know, would carry disappointment and sorrow to the minds of many of his most respected and esteemed friends, both in and out of this hall. It had been his habit, as it had been his pleasure and pride, to act with his political friends; and he could not describe the reluctance under which he now found himself compelled to separate from them. Yet, after the most mature and anxious reflection, he had come to the conclusion that it was his duty to vote for this measure, because he assumed that this bill must pass in the form it now bears, or that no revenue law can pass at the present session. If he was correct in this assumption, then he could not avoid the conclusion he had announced; and he did not suppose there was a single member of either House of Congress who supposed for a moment that, if this bill be rejected upon this vote, any further attempt is to be made, at this session, to pass a revenue bill. The alternative presented, then, is this bill or none; and the deep and deliberate conviction of his mind was, that this bill should pass, bad and loaded with defects as he believed it to be, rather than that none should pass.

A collateral consideration had greatly troubled him in assenting to this conclusion. His first service in Congress was as a member of the Committee on Manufactures of the House

of Representatives, during the session of 1837 and 1838, when he assisted to form, and voted for, the tariff bill of 1838, which has been so extensively denominated "the bill of abominations." He was then wholly without experience in legislation of this class and character; but his experience from that action had taught him the truth of the adage, that "men's evil deeds follow them." He became very soon convinced that he had committed a great error upon that occasion, and it was possible he was about to commit another as great now. It grieved him to know and feel that many friends within the reach of his voice, whose judgment he most highly respected, and whose good opinions were most valuable to him, would so look upon his present vote. He could not. The occasions appeared to him to be wholly dissimilar. The tariff of 1838 was avowedly passed for protection; and if considerations of revenue had any connection with it, they were only incidental to the main object of protection. There was no complaint of want at the treasury; no alleged necessity for increased revenues; and no blemish upon the public credit, so far as his recollections served him. Not so now, but precisely the reverse in all these respects. The treasury is empty; and almost daily the public creditors are turned away from it without payment. This very Congress has increased, and is daily increasing the public expenditures, and thus creating the necessity for increased revenues. And the public credit is not sinking, but sinking; so that loans, at high interest and at long time, cannot be negotiated at home or abroad, upon the declared reason that we have not revenues to meet the payment of the public liabilities.

These changes of circumstances constituted, in his mind, the highest necessity for a revenue law, and forced upon him, under the most solemn sense of public duty, the course of action which he proposed to pursue. All he could ask of the friends who should differ from him, and believe him to be still in error, was, that they would believe him to be governed by pure motives; and if in error, to be honestly so. He owed it to those friends, as well as to himself, to make another remark; which was, that the consequences of his action, if evil, should be visited upon himself, and upon himself alone; as no friend, here or elsewhere, had interfered to bring him to the conclusion he had pronounced. Many very dear friends, whose judgments, upon almost all occasions, he valued more highly than his own, had kindly attempted to convince him he was in error—not one to urge him to give the vote.

After what had been said, and so well said, by the honorable Senator from Pennsylvania (Mr. BUCHANAN) upon the subject of distribution, and the condition of the treasury, and of the public credit, as connected with the passage of this bill, he should be required but briefly to allude to those topics, although upon them

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rested his action. It was known to the Senate that he had entertained deep feeling against the policy of distribution in any form, or for any purpose; and it certainly was a powerful and leading inducement with him to vote for this bill, that its effect was to be to arrest, and, he hoped, to eradicate forever, that policy. He begged to be believed in the assertion that, in speaking of distribution with the frankness and plainness which this occasion required, he did not design to utter one word which would wound the feelings of a single individual on any side of the House. He knew there were many as honestly and strongly friendly to the policy, as he was honestly and strongly opposed to it. It was his intention, upon all occasions, to award to others that credit for sincerity and purity of purpose, which he now asked from them; and he certainly now felt the heavy responsibility resting upon him too sensibly to entertain unkind feelings, or to give utterance to unkind words, towards any one.

Mr. WOODBURY spoke in substance as follows:

Were we all pursuing one end by different modes, it would be proper, in this great exigency, to make mere form yield to substance. It would, sir, be manly and patriotic to relinquish any diversity of opinion about means—if all legal in themselves—in order to attain one important and common object. Nor would I, for one, in such a case, be behind either the Senator from New York, or the Senator from Pennsylvania, in such a public sacrifice.

But, unfortunately, that is not the condition of the momentous question before us. From the start, sir, it has been the deplorable policy of the friends of this bill to seek, not one end or object, but three: and those three involving principles of cardinal importance, rather than being different modes or means of subordinate consequence to attain a single purpose. Those three objects are, first, to procure revenue to discharge the ordinary obligations of the treasury, and rescue public credit from its present shameful depreciation; next, to give direct, high, and exclusive protection to manufactures; and, last, to assume, through distribution, a portion of the existing State debts. There is no use in circumlocution or concealment. These have all been—these are all now essential ends connected with the present measure. I shall not add—as to any of them—that they are bad ends in the opinion of their friends; though, in my own opinion, all are, in themselves, incompetent and illegitimate for the General Government to pursue, except the first. That is a paramount object on this embarrassing occasion; and, indeed, to procure revenue should be the only object in a bill entitled like this—"A bill to raise revenue."

If it is also constitutional and expedient for us virtually to assume State debts to the extent of three or four millions, why is it not attempted in a separate, independent measure? Why this logrolling, and combination or bargaining,

which unites in one bill heterogeneous and irrelevant subjects, and makes the success of one dependent on the success or failure of another? If you have a right to assume State debts, and have the means to spare for it in these distressed times, why not do it openly, and not under cover of a distribution of a surplus, when no surplus exists? So, if you have the right to give protection to one branch of industry, as a legitimate constitutional end under the powers of the Federal Government, and not merely as an incidental consequence of duties imposed for revenue, why not march manfully to such protection in a separate bill? Why not, as in France, expressly prohibit what comes from abroad, and competes with our manufactures, which it is deemed so important to cherish? Why not add, likewise, direct bounties in other cases, where found necessary to sustain them? That would at least be intelligible, aboveboard, and the country would see and understand what Congress was really doing; and that policy would not, as in this case, by an unnatural combination, embarrass, or endanger the only avowed object of this measure on its face—which is, to raise revenue. I do not impute this to any one as a designed wrong; but merely state facts, and complain of their bad tendency. This state of things, therefore, develops a case where gentlemen are not called on to yield up forms for substance, as most of us would cheerfully do in connection with either of the three great objects in the bill, if they stood alone. But it is a case where we are required to give up some one or two great ends, in order to secure another; and are thus obliged to examine and decide whether any end we obtain by the bill, is of sufficient magnitude to justify our voting for other parts of it which we dislike and oppose.

This is the conflict and embarrassment. The whole secret has been inadvertently disclosed in some of the remarks of the Senator from Massachusetts. Manifestly, he deems the high protection in the bill to manufactures, of more importance than either distribution or revenue, or both combined. Hence, there is no wonder that he should vote for it, though he loses thereby the other desirable yet subordinate end of distribution; and lessens also, somewhat, the still other (yet, in his view, less vital) end of revenue. While, on the contrary, it is to be inferred that other gentlemen, who deem distribution and the partial assumption of State debts by it, paramount to all other considerations, either in a party or public view, will vote against the whole bill, because it suspends distribution.

An intermediate class of gentlemen—like the Senator from New York—deem the last effect of the bill, in relinquishing distribution, its greatest merit; and on that account alone are induced to vote for it, coupled with the consideration that it secures the collection of revenue, when now doubtful, and may be eminently useful to the manufacturing interest.

Now, sir, if I coincided in opinion with either of these classes, I should have voted with one of them, without explanation or delay at this late hour. But as I do not coincide with them, a minute or two more of the indulgence of the Senate is asked, to define my own position, and to show the reasons which are to me conclusive for still opposing the bill.

I place out of view entirely the consideration which seems to influence some—that we are likely to have no revenue if they vote against the bill; because the bill is destined to pass, if every Democrat in the Senate votes against it. This I have said and predicted from the outset. It secures a high and discriminating tariff for manufactures; and that alone is sufficient, with most of the majority in this body—the high-tariff party—to insure its triumph, whatever may be its violation of compromises, or its temporary effect on distribution. Next, it secures the rightful collection of revenue, when now it is, in their opinion, doubtful; and when the imperative duty has been devolved on them ever since last June, at once to provide for that contingency, if nothing else.

But why a Senator should vote for this bill who is hostile to a high and exclusive system of protection, and who is looking to revenue as the chief object that ought to be sought in a great exigency like this, of a bankrupt treasury and dishonored national credit, is to me inexplicable. I arraign the motives of no one, but look only to acts. You suspend by it distribution, I grant; and that is desirable. But how long suspend it? Only, as the argument of the Senator from Massachusetts proves, till he and his friends possess power enough to restore it. Distribution is not now renounced by them from a belief in its illegality or impolicy, or even from patriotism, or any moral heroism; any sublimity of public feeling and public principle, as we are invoked to believe; but from utter inability to retain it; and at the same time obtain either direct or incidental protection to manufactures above 20 per cent. duty. It is to be surrendered, then, as a mere bargain—a fair business transaction—a sheer *quid pro quo*; to get, instead of it, a system of protection deemed more valuable. But if it could be retained, and the high tariff be also obtained, would it not be? Have we not had ample evidence of that, in two successive vetoed bills; in attempts again to effect it by an amendment to this very bill in the Senate; and, lastly, by a new separate bill to restore the distribution, which reposes now under your eyes, sir, on your own table, and which hurriedly passed the other House on the heel of this, and is destined, I suppose, to accompany this to the other end of Pennsylvania avenue? No, sir. Some of us have lived a little too long to be hoodwinked into any belief that distribution is surrendered in this bill from any cause except painful necessity, for any length of time—even a single hour—beyond their ability to restore it. While a high majority exists in both

Houses, the only obstacle—the only salvation—from the unnumbered evils connected with the partial assumption of State debts, through the distribution, is the firmness and independence of the Executive.

So much for that reason in favor of the bill. It is something, I admit; but, under all the circumstances, it is a forced, temporary, uncertain benefit, and for the continuance of which we are to depend on other measures and efforts than this.

But what are those Senators on this side of the House compelled to abandon in order to obtain that supposed equivalent? First, all our principles of free trade, and all our opposition to an unconstitutional system of direct protection to one class or section of country at the expense of others. We believe, conscientiously, that the direct protection of manufactures is a power not granted to the General Government, but retained to each State, to be used according to its own local interests and policy, and belongs to it as properly as the payment of its own debts. It is too late in the day, sir, now to pretend that this bill does not possess that direct and high protective character. What would a stranger have supposed, who, for the first time, entered our galleries to-day? Not that revenue was the topic of discussion—the *consummation devoutly wished*; but high protection, and nothing but high protection, with most of the speakers. What has been the whole argument of its friends to-day? What their impassioned appeals, but to save the manufacturers? What but to aid that class, and that alone, in the present embarrassments extending to all classes? We hear nothing of saving the farmers—nothing of helping the merchants; though all are distressed, and though the capital of the manufacturers (which the Senator from Rhode Island appeals to me as being three hundred millions) is doubtless so; but is, at the same time, but one-tenth of the three thousand millions which belong to the farmers. The Senator from Massachusetts asks, likewise, if the constitution itself was not adopted for protection? Yes. But, in God's name, and under its solemnity, let me ask, for protection to whom? To the farmer surely, and the merchant, as much as to the manufacturer. To the twelve or thirteen millions of people now connected with our agriculture, certainly quite as much as to only the million and a half connected with manufactures. I go with the constitution for equal protection to the whole in their lawful pursuits, but for no exclusive or partial protection to either.

Mr. CRITTENDEN stated that he had with reluctance been driven to the conclusion of voting for this bill. He could not be accused of courting the favor of the Executive, by conforming to his will; but he had deeply weighed the condition of the Government; and he could not bring himself to wound his country with a blow aimed at Mr. Tyler.

The considerations which had influenced him

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were—first, a deference to the decision of the House of Representatives; next, the condition of the country. He saw the whole country in a state of humiliation and distress—the manufactures ruined, the revenue suspended, the laboring industry of the country reduced to misery and destitution; and he asked himself, Can any thing be done to relieve this distress? Although we have a bad President—a mischievous President—yet we have a glorious country, and a glorious people; and the question is, What can we do to raise this country, and this people, from this dark mist of distress? It is not Mr. Tyler's country, or Mr. Tyler's Government; it is our country, and our Government: and, for its sake, we should come up proudly, and give our votes for its relief.

He denounced the President here, and would denounce him everywhere, in language as strong as respect for public decorum would warrant. He voted for this bill, with the intention of also voting for the bill on the table—for the repeal of the sixth clause of the distribution act. Both bills should go to the President. Let his veto No. 5 and his veto No. 6 come. Who cared for his vetoes? He (Mr. C.) cared nothing for them. His taste had become so reconciled to vetoes, that they did not now seem half so bitter to him as he once thought them. Let both bills go to the President, that he may have his wish gratified—of having the two measures separated. And let him give either, or both his veto. He could tell the Senator from New York that the President's acceptance of the one, and rejection of the other, would not uproot the tree of distribution. Its germ was alive, and could not be killed by suspended animation.

Mr. WHITE said, in yielding to the great manufacturing States, he felt that he was imposing upon them a pledge at no distant day to come up, in turn, to the rescue of the indebted States from their distress and degradation, by affording them the just relief to which they were entitled from the fulfilment of the distribution act. The Whig party would be rewarded with a reinvigorated confidence and support for the self-sacrifices they had made. Without the votes of the opposition, Congress would have to adjourn without giving any revenue to the Government. For this aid he thanked them. That Congress had the power and the capacity to protect the industrial interests of the country, he said he proved from the votes of his opponents. Listening to the voice of his constituents, he should vote for this bill.

Mr. CALHOUN said he felt it due to himself, and those he represented, that he should give his opinion on this bill, and the reasons that were alleged for its passage. The hour was late, and the time short, and he should be as brief as possible.

He would begin with premising that it was apparent a large portion of the party in power were much embarrassed in determining how they should vote on this bill. But, if he might

be permitted to decide, he would say that, if they had some cause for mortification, (as they certainly had,) they had still greater for exultation. If one of their favorite measures was lost by its passage; another, and still greater and more important favorite would become a law, if appearances did not deceive. For his part, he regarded this bill (now, as he feared, on the eve of passage) as a measure more thoroughly for protection, and less for revenue, than any which had ever been submitted for the consideration of the Senate. It is the same, without material alteration, excepting the omission of the duty on tea and coffee, which recently passed this body, and fell under the veto of the Executive. That he had already shown, was, all things considered, the most onerous ever introduced into the Senate. What he now proposed was, to show that the burden proposed was more for protection, and less for revenue, than any preceding measure, not excepting the one vetoed.

An examination of this bill will show that there is not an article manufactured in the country, nor one which might come into competition with one that is, which is not subject to high protective duties. In the latter description may be placed linen, silks, worsted—which, though not articles manufactured in the country, are subject to as high duties as those that are, in order to give the home manufacturers of cotton and woollens the exclusive monopoly, if possible, of the market. To this may be added, that there is not a raw material scarcely, on which manufactures operate, or any material which is necessary to the process of manufacturing, which is not admitted duty free, or subject to a very light one. But this is not all. Most of the articles for which the exports of domestic manufactures are exchanged abroad, are subject to light duties; and the two principal ones (tea and coffee) for which they are chiefly exchanged, are admitted duty free. It is that, as he has stated, which makes the main difference between this and the vetoed bill. On the other hand, all the articles for which the agricultural products of the country, including provisions of every description, and the great staples of the country, are almost exclusively exchanged, are subject to high duties: such as wines, silks, worsted, cottons, linens, cutlery, hardware, woollens, and the other products of England and the continent. The bill, in short, is framed throughout with the greatest art and skill, to exempt, as far as possible, one branch of industry from all burdens and shackles, and to subject the other exclusively to them; and well may our political opponents raise their heads, amidst their many defeats, and exult at beholding a favorite measure—one, above all others, indispensable to their entire system of policy—about to be consummated, and that, unfortunately, by aid from our ranks. Who could have believed, but a few days since, that such an event would shortly occur?

It results from all that is stated, that this bill is so constructed as to give the greatest amount of protection, with the least of revenue, in proportion to the rates of the duties proposed, which all of the adroit skill of its authors could combine; and its result will be the least amount of revenue in proportion to the burden on the consumer. In that respect, there is no other bill ever passed to be compared to it; no, not that of 1816, nor 1824, nor 1828; nor even its immediate predecessor, the bill vetoed; for that fell far short, in consequence of the omission of the duty in this on tea and coffee. He hazarded little in saying that, if the duties it imposes on the protected articles were reduced two-thirds, they would yield a third more to the treasury; and that for every dollar this bill puts into the public coffers, it will put three at least into the pockets of the manufacturers, unless (what would be worse, and which, he believed, would prove to be the case) it should annihilate that amount and more of the productive industry of the country, to the general impoverishment of the community.

But our political friends who are about (unfortunately, as he believed) to give this bill their votes, endeavor to console us by telling us it is a mere provisional measure, intended to meet present exigencies; and that it will be repealed, or greatly modified, in a short time after we get into power. They doubtless think so; but will it be the case? Can they, on reflection, seriously believe that the necessity, which they plead in excuse for their votes, will be less than that it is now?

Do they really think that the manufacturers will be better able to bear a reduction of these high duties about to be imposed, as it is alleged, to save them, than they are now to do without them? If they do, they will be woefully mistaken. We have had a good deal of experience on the subject. The effect of high duties is not to decrease the necessity of continuing them, but the reverse—to increase the necessity of raising them still higher. This bill itself furnishes some striking evidence of the fact. Among the articles on which it imposes the highest rates of duty, is that of coarse cottons—rates not less than 100 per cent. on some descriptions; and they are the very articles so highly favored by the tariff of 1816, under the minimum duty, which the Senator from Kentucky (Mr. CRITTENDEN) so kindly brought to his recollection in the course of his remarks. We were then told (as we now are of this bill) that it was a mere provisional measure to protect an infant manufacture, which, in a few years, would protect itself by its own intrinsic energy; and yet now, after more than a quarter of a century, the manufacturers of the same article come and ask a still higher duty, in proportion, than what they then did. Again: another favored article, at that period, was rolled iron: to protect which against the foreign, a duty of \$30 per ton was laid on the imported; and now, also, its manufacturers come again, after

so great a lapse of time, and ask a duty of \$25 per ton; which is an *ad valorem* duty on the present cost greater than the rate per cent. in 1816—being not less than 100 per cent. He would add another item—that of cotton bagging and bale rope: on which the rate per cent. is much higher, as now proposed by this bill, than under the tariffs of 1824 or 1828; although we had then the same assurance as to it, as we have now as to this bill—that it was provisional, and that the home market would soon furnish a cheaper and better article. In fact, the whole bill, taken in connection with the declarations of its advocates—that the manufactures must go down unless these duties are imposed—forms a volume of evidence that the whole effects of all passed protection, from 1816 to this day, have been but to require still higher. It is, indeed, in the nature of the system, as he had proved when the vetoed bill was before the Senate, that every duty imposed had but the effect of requiring a still higher. The cry ever has been “more, more, more.” The more it has been supported, the more it required to be supported.

Those, then, of our political friends who intend to vote for this bill, deceive themselves, in supposing they are imposing a provisional or temporary burden. It is easy to put on the burden, but it will prove hard to take it off—as we have had ample experience. The exigency under which they, unfortunately, suppose they are compelled to vote for it, will be as great—nay, greater—against repealing or reducing the duties it imposes, hereafter, as it is now to impose them. Instead of being less dependent, the operatives, who live by the bounties it grants, will be more numerous, and more dependent; and, if to refuse to impose these duties now would subject them to starvation, as we are told,—to repeal or reduce them hereafter would more certainly be followed (and that to a greater extent) by the same effect. He would tell those who were about to take the fatal step, that they were about to do what could not be undone short of the extreme medicine of the constitution; unless the excess to which it is proposed to push the system should bring an empty treasury into conflict with protection, or the great advance of intelligence should teach the many that the whole scheme, with all its plausible catch-phrases, is but a device of the few to live on the products of their labor.

Such, at least, was his conception; and he believed he might say that of the many friends around him, and who, with him, are opposed to this bill. And what are the motives which are held out to us to give it our support? We are told by its friends and advocates that its passage would settle the question. They say the country needs repose; and that its business and its prosperity cannot be revived till it is attained. That may be admitted. But will the passage of this bill settle the question, and give repose? The very reverse. It will

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*The Tariff Bill.*

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greatly increase the agitation. The principles involved in the controversy are so directly hostile, that the question can never be settled till one or the other shall permanently prevail. There is (and, in the nature of things, there can be) no compromise between those who hold that the power of levying duties was given only for the purpose of raising revenue for the support of the Government, and can constitutionally and honestly be exercised only for that purpose; and those who hold that, in laying duties for the wants of the Government, they may, at the same time, be laid for the purpose of taking money from one portion of the community, to give to another. The great struggle between these conflicting principles now is, which shall gain the permanent ascendancy. This bill, if it should pass, would, at least for the present, give it to the side of monopoly, and against the side of equal rights; and if that ascendancy should become permanent—if its passage should settle the question, as its advocates fondly hope, in vain will be our victories at this and the extra session for popular institutions. The popular party, of which we are members, must go down; and our opponents, with their policy, and the form of government to which it must necessarily lead, will rise permanently in the ascendant. Justice and equality—justice rigidly enforced, and equality between citizen and citizen, State and State, and one portion of the country and another, are essential elements of our system of government, and of the party to which we profess to belong; and no system of policy can be admitted, which shall permanently depart from them, without fatal consequences to both. Already, if we may judge from the declarations of the Senator from Massachusetts, (Mr. CHOATE,) and other advocates of this measure, the protective policy which this bill carries, so far, has made fearful changes for the worse in a large portion of the population of our country. According to their representations, the operatives engaged in manufactures which have been forced into existence by the system, depend for their bread on the passage of this bill. Is such a state of dependence on the movement of this Government consistent with the bold and independent spirit of freemen? Can a population be relied on to watch over and control its movements or resist its encroachments, when whether they shall live or starve depends on the change of two or three votes in this or the other House—and that, too, depending, perhaps, on no higher consideration than the calculation of political chances? That any portion of our population should be in so low and dependent a condition, excited his commiseration. If such are the blessings of the system—if it can so humble, in so short a time, the once proud, hardy, and independent yeomanry of New England,—he, for one, would infinitely rather see the portion of the Union where his lot is cast, impoverished by its exactions, but still

retaining its erect and independent spirit, than wallowing in all the wealth it can bestow.

The portion of our party who have unfortunately separated from us on this measure, rest their support on different grounds. They plead, in the first place, the condition of the treasury as a justification of their vote. That it is bad; that the demands on it are urgent and great, and its means of meeting them small; that the public credit is prostrated; and that the agent, who has been idly sent abroad to negotiate the loan, has been treated with scorn, was, he apprehended, but too true; and to be lamented that it is true. But who are responsible? He, and the party of which he is a member, are not. We had no agency in the measures which have led to the present exhausted condition of the treasury. On the contrary, we have done all in our power to resist it. We saw the danger at the extra session; and raised then, and have continued ever since to raise, our warning voice against it. We opposed the withdrawal from the treasury of the revenue from the lands—resisted the creation of the debt; we called on those in power to retrench and economize in time; but all in vain. The last thing they thought of was the ways and means. It was the last at the extra session, as it is now the last at this. He stopped not to inquire whether this strange course was the effect of negligence or design on the part of those in power—designed to force, this their favorite measure of policy, through; and whether our political friends, who intend to vote for it, on the ground of the exigency of the treasury, are not, without intending it, but consummating that design.

But it may be said that we are bound to relieve the treasury, without inquiring into the fact, by whom, or in what manner its embarrassment was caused. That may be admitted; but surely, when we come to the question of remedy, if there be a difference of opinion, those who are responsible, who have caused the mischief, and not those who have warred against it, and opposed the measures that led to it, ought to yield. It is going too far on their part, after they have done the mischief to refuse to remedy it, unless we shall agree to join them in a measure as bad, to say the least, as the disease.

[Mr. C. proceeded to enumerate the various reasons that had been assigned in favor of the bill, and concluded as follows:]

Another, and a final reason remains to be stated,—that it would suspend the distribution act. He acknowledged its force. No one more strongly objected to that unconstitutional and dangerous measure than he did, or placed a higher estimate on the importance of expunging it from the statute-book; but, as bad as the measure is, he was not prepared to say that it was worse than this, or to get rid of it by sub-

stituting it in its place. But suppose them to be equally objectionable, there was this difference between them: it would be far easier to extricate ourselves from that, than from this. There was no comparison in the extent and the strength of the interests that would be enlisted in favor of this measure, compared with those in favor of distribution: while the whole of our party are united and zealous against that, the feebleness, but unfortunately divided to a considerable extent, it would seem, in reference to this, the stronger. According to his opinion, the repeal of the distribution act by the next Congress, with the whole weight of our party and the Executive Department against it, was as certain as almost any future event; yet he was ready to make considerable sacrifice for immediate riddance from that odious measure, but nothing like as great as voting for this bill.

No one could more sincerely deplore that any portion of our political friends should bring themselves to support a measure to which he was so strongly opposed, and which he sincerely believed to be directly hostile to the principles of the party, and our free and popular institutions. He doubted not but that they had come to a wrong conclusion; but he did hope that they would retain the strong repugnance they express to a measure, which they think themselves under circumstances compelled to support, and will rally at an early period, not only in co-operation with the rest of the party, to free the country from its blighting effects, but will take the lead in its overthrow.

Mr. WOODBRIDGE observed that the bill before the Senate appeared to him to be fully as protective a measure as it did to the mind of the Senator from South Carolina. But that was no objection to him; on the contrary, it was its greatest recommendation. It went far to reconcile him to the sacrifice which his party had been constrained to make. He had risen merely to say, with regard to the vote he should give, as his friends went, so would he go.

The question was then taken on ordering the amendments to be engrossed, and the bill read a third time, on which the yeas and nays had been called and ordered; and it was decided in the affirmative, as follows:

YEAS.—Messrs. Barrow, Bates, Bayard, Buchanan, Choate, Conrad, Crafts, Crittenden, Dayton, Evans, Huntington, Miller, Morehead, Phelps, Porter, Simmons, Smith of Indiana, Sprague, Sturgeon, Tallmadge, White, Woodbridge, and Wright—24.

NAYS.—Messrs. Allen, Archer, Bagby, Benton, Berrien, Calhoun, Clayton, Cuthbert, Fulton, Graham, Henderson, King, Linn, Mangum, Merrick, Preston, Rives, Sevier, Smith of Connecticut, Tappan, Walker, Woodbury, and Young—23.

The bill was then read a third time, and passed.

So the Senate, at 8 o'clock, adjourned.

MONDAY, August 29.

#### *The Distribution Bill.*

The bill from the House repealing the proviso to the 6th section of the distribution act, (and which suspended the operations of that act when the tariff of duties on imports shall have been raised above 20 per cent.,) was taken up on the motion of Mr. CRITTENDEN, who hoped the bill would be permitted to pass to-day by general consent.

The bill was then read the second time.

Mr. TAPPAN said every Senator knew that, if the bill passed, it could not meet the approbation of the Executive. The question presented in it was the same, precisely, which was presented in the tariff bill, and which caused the veto of that bill. The President gave his reasons for the veto of this proviso then; which were on the files of Senators. Unless the opinions of the Executive had changed on the subject, no man supposed, for a moment, that this bill would not receive a veto. To pass it under such circumstances showed insincerity and mockery in legislation, evidenced a tantalizing spirit towards the Executive, and was perfect child's play. If a majority of the Senate thought proper to pass the bill, he could only complain.

The bill was then considered as in Committee of the Whole; and there being no proposition to amend, it was reported to the Senate, and ordered to a third reading.

The bill having been passed by informally, on the motion of Mr. LINN, owing to the thinness of the Senate, was subsequently taken up, and read the third time; and the question being, "Shall the bill pass?"

Mr. TAPPAN demanded the yeas and nays, which were ordered; and the question being put, the bill was passed as follows:

YEAS.—Messrs. Archer, Barrow, Bayard, Choate, Clayton, Conrad, Crafts, Crittenden, Dayton, Evans, Graham, Huntington, Mangum, Miller, Morehead, Phelps, Porter, Simmons, Smith of Indiana, Sprague, Tallmadge, White, and Woodbridge—23.

NAYS.—Messrs. Allen, Bagby, Benton, Buchanan, Calhoun, Cuthbert, Fulton, Henderson, King, Linn, Preston, Rives, Sevier, Sturgeon, Tappan, Walker, Woodbury, Wright, and Young—19.

#### HOUSE OF REPRESENTATIVES.

MONDAY, August 29.

#### *The Tariff.*

A. Dickins, Esq., Secretary of the Senate, appeared below the bar, with a message from the Senate, and announced that the Senate had passed a bill entitled "An act to provide revenue from imports, and to change and modify existing laws imposing duties on imports," with amendments, in which they requested the concurrence of the House.

Mr. FILLMORE rose, and said he hoped the bill which had just been reported from the Senate,

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would be taken up at once, and disposed of. (Cries of "agreed.")

The bill having been taken up, Mr. FILLMORE again rose and said that many of the amendments were merely verbal ones, and they could all be disposed of at once, except such as might be exempted at the request of any gentleman, who desire a specific vote on them. He hoped, therefore, that if there were any such amendment, gentlemen desiring a distinct vote upon it would point it out.

He then made some brief explanatory statements respecting some of the amendments; and concluded by moving the previous question.

Mr. LINN obtained a withdrawal of that motion, on a promise to renew it; and then made a statement of the motives which actuated him in the vote he was about to give. He renewed the motion for the previous question.

Mr. FILLMORE moved a concurrence in the amendments of the Senate.

The motion for the previous question was then seconded.

The question was then taken on laying the bill and the amendments on the table, when the motion was negatived, as follows:

YEAS.—Messrs. Arnold, Arrington, Atherton, Black, Boyd, Aaron V. Brown, Burke, Sampson H. Butler, William O. Butler, Green W. Caldwell, Patrick C. Caldwell, John Campbell, Casey, Clinton, Clifford, Coles, Mark A. Cooper, Cross, Daniel, Dean, John C. Edwards, Egbert, Gamble, Gilmer, Goggin, William O. Goode, Graham, Gwin, Habersham, Harris, Hays, Holmes, Hopkins, Houston, Hubard, Hunter, Cave Johnson, John W. Jones, King, Lewis, Littlefield, Abraham McClellan, McKay, Mallory, John Thomson Mason, Mathews, Medill, Owsley, Payne, Rayner, Reding, Rhett, Reynolds, Saunders, Shaw, William Smith, Steenrod, Sumter, Jacob Thompson, Turney, Warren, Watterson, Weller, James W. Williams, and Wood—65.

NAYS.—Messrs. Adams, Allen, Landaff W. Andrews, Sherlock J. Andrews, Appleton, Ayer, Babcock, Baker, Barnard, Barton, Bidlack, Birdseye, Blair, Boardman, Borden, Brockway, Milton Brown, Charles Brown, Jeremiah Brown, Burnell, Calhoun, William B. Campbell, Thomas J. Campbell, Caruthers, Childs, Chittenden, John C. Clark, James Cooper, Cowen, Cranston, Cushing, Garrett Davis, Richard D. Davis, Deberry, John Edwards, Everett, Ferris, Fessenden, Fillmore, John G. Floyd, Gentry, Gerry, Giddings, Patrick G. Goode, Gordon, Granger, Gustine, Hall, Halsted, Houck, Howard, Hudson, Hunt, Charles J. Ingersoll, Joseph R. Ingersoll, James Irvin, William W. Irwin, William Coet Johnson, John P. Kennedy, Linn, Robert McClellan, McKennan, Samson Mason, Mathiot, Matlocks, Maxwell, Maynard, Mitchell, Moore, Morgan, Morris, Morrow, Newhard, Oliver, Osborne, Parmenter, Pearce, Plumer, Pope, Powell, Proffit, Ramsay, Benjamin Randall, Alexander Randall, Randolph, Read, Ridgway, Riggs, Rodney, James M. Russell, William Russell, Saltonstall, Shepperd, Simonton, Slade, Truman Smith, Sollers, Sprigg, Stanly, Stratton, Alexander H. H. Stuart, John T. Stuart, Tallafiero, Richard W. Thompson, Tillinghast, Toland, Tomlinson, Triplett, Trumbull, Underwood, Van Buren, Van Rensselaer, Ward, Washington, Edward

D. White, Thomas W. Williams, Joseph L. Williams, Wise, Yorke, and Augustus Young—120.

And the question recurring on concurring in the amendments of the Senate—

They were read by the Clerk; and, no separate question having been asked, except on the 29th section, the amendments were concurred in *en masse*.

On the 29th section Mr. W. C. JOHNSON called for a separate question, and asked the yeas and nays; which were refused.

And the question being taken, the said amendment was concurred in.

So all the amendments were concurred in.

#### IN SENATE.

TUESDAY, August 30.

#### *Reorganization of the Navy Department.*

Mr. BAYARD, from the Committee on Naval Affairs, to which had been referred the bill reorganizing the Navy Department, as amended by the House, reported that the committee had instructed him to recommend that the Senate concur in all the amendments of the House, except the one consolidating three of the bureaus into one, to be called the "bureau of construction, of equipment, and repairs." He said the committee was not opposed to consolidating the bureaus, but thought it unnecessary and improper to place at the head of the bureau alluded to a naval constructor. They, therefore, for the purpose of having the words "a naval constructor" stricken from the amendment of the House, propose that the amendment embracing those words be disagreed to, and that a committee of conference be appointed to effect that object.

The amendments were agreed to, as recommended by the committee; and a committee of conference, to consist of three, was appointed by the Chair.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, August 30.

#### *The Protest.*

The SPEAKER laid before the House the Message, in writing, from the President of the United States.

The reading of the Message having been concluded—

Mr. ADAMS said there seemed to be an expectation on the part of some gentlemen, that he should propose to the House some measure suitable to be adopted on the present occasion. Mr. A. knew of no reason for such an expectation, but the fact that he had been the mover of the resolution for the appointment of the committee which had made the report referred to in the Message; had been appointed by the Speaker chairman of the committee; and that the report against which the President of the United States had sent to the House such a



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multitude of protests, was written by him. So far as it had been so written, Mr. A. held himself responsible to the House, to the country, to the world, and to posterity; and, so far as he was the author of the report, he held himself responsible to the President also. The President should hear from him elsewhere than here on that subject.

Mr. A. went on to say that it was because the report had been adopted by the House, and not because it had been written by him, that the President had sent such a bundle of protests; and, therefore, Mr. A. felt no necessity or obligation upon himself to propose what measures the House ought to adopt for the vindication of its own dignity and honor; and, perhaps, from considerations of delicacy, he was indeed the very last man in the House who should propose any measure under the circumstances.

If he understood the Message which had been read at the Clerk's table, it declared that the action of the House, in adopting the report of the Select Committee, was without precedent in our parliamentary history. Now it seemed that, on this occasion, the President's memory must have been, in some degree, treacherous. Another, and a very memorable case of the like kind had occurred, and one in which the President had himself taken an important part; and Mr. B. proposed to measure out to him the very same measure which he had meted out to the then President of the United States.

In 1834 the Senate had adopted certain resolutions, condemning the course of President Jackson in the removal of the deposits from the Bank of the United States to the State Banks. In consequence of this movement on the part of the Senate, President Jackson sent to that body a *protest* against the right of the Senate to express any opinion censuring his public course; and, what made the case then stronger than the present case, was, that the Senate constituted the jury by whom he was to be tried, should any impeachment be brought against him. The Senate, after a long, elaborate discussion of the whole matter, and the most eloquent and overpowering torrent of debate that ever was listened to in this country, adopted the three following resolutions:

"1. *Resolved*, That, while the Senate is, and ever will be, ready to receive from the President, all such messages and communications as the constitution and laws, and the usual course of business, authorize him to transmit to it; yet it cannot recognize any right in him to make a formal protest against votes and proceedings of the Senate, declaring such votes and proceedings to be illegal and unconstitutional, and requesting the Senate to enter such protest on its journal."

On this resolution the yeas and nays were taken; and it was adopted, by a vote of 27 to 16: and among the recorded votes in its favor, stood the name of John Tyler, now acting President of the United States, and Daniel Webster, now his Prime Minister.

The second resolution was as follows:

"2. *Resolved*, That the aforesaid protest is a breach of the privileges of the Senate, and that it be not entered on the journal."

The same vote, numerically, was given in favor of this resolution; and among the yeas stood the names of John Tyler, now acting President of the United States, and of Daniel Webster, now his Prime Minister.

The third resolution read as follows:

"3. *Resolved*, That the President of the United States has no right to send a protest to the Senate against any of its proceedings."

And in sanction of this resolution also, the record showed the names of the same John Tyler and Daniel Webster.

He read long extracts from Mr. Webster's speech, delivered in the Senate of the United States on the protest of President Jackson; and then said those were the views of the intellectual giant to which he had referred. He forbore to add any opinion of his own. He was willing to adopt the sentiments he had read as his; and he submitted to the House, for its adoption, the following resolutions, the three first of which were in the precise form, and in the precise language of those adopted by John Tyler himself:

*Resolved*, That whilst this House is, and ever will be, ready to receive from the President, all such messages and communications as the constitution and laws, and the usual course of public business, authorize him to transmit to it; yet it cannot recognize in him any right to make a formal protest against votes and proceedings of this House, declaring such votes and proceedings to be illegal and unconstitutional, and requesting the House to enter such protest on its journal.

*Resolved*, That the aforesaid protest is a breach of the privileges of this House; and that it be not entered on the journal.

*Resolved*, That the President of the United States has no right to send a protest to this House against any of its proceedings.

If this were the first time a protest had been sent by a President to Congress, he should content himself with offering these resolutions; but since the present President had given them his opinion of such a protest, he would add the following:

*Resolved*, That the Clerk of this House be directed to return the message and protest to its author.

Inasmuch as he had only read resolutions which were adopted by John Tyler, and extracts from the speech of John Tyler's Prime Minister, without saying any thing for himself, except that he adopted those sentiments, he now moved the previous question.

Tellers were appointed on the motion for the previous question, and they reported 66 in the affirmative, and 48 in the negative—being less than a quorum.

The vote was then taken on seconding the

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Adjournment.

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call for the previous question, and it was carried in the affirmative.

Mr. PROFFIT moved to lay the resolutions on the table; which was negatived.

The main question was then ordered.

The first resolution being then in order,

Mr. WM. W. LEWIN moved to lay it on the table.

The SPEAKER decided the motion to be out of order; and

The resolution was then adopted—yeas 87, nays 46.

So the first resolution was adopted.

On the second resolution, which is in the following words:

*Resolved*, That the aforesaid protest is a breach of the privileges of this House, and that it be not entered on the journal.

The vote resulted—yeas 86, nays 48.

So the second resolution was adopted.

On the third resolution, which is in the following words:

*Resolved*, That the President of the United States has no right to send a protest to this House against any of its proceedings.

The vote resulted—yeas 86, nays 53.

So the third resolution was adopted.

The question recurring on the fourth resolution, which is in the following words:

*Resolved*, That the Clerk of this House be directed to return the message and protest to its author:

Was then taken, and the vote stood as follows—yeas 62, nays 69.

So the fourth resolution was rejected.

#### IN SENATE.

WEDNESDAY, August 31.

*Vote of Thanks to the President pro tem.*

On motion of Mr. KING, (the President *pro tem.* not being in the chair,) it was

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*Unanimously resolved*, That the thanks of the Senate be presented to WILLIE P. MANGUM, for the ability and impartiality with which he has discharged his duties as President *pro tem.* of the Senate.

#### Adjournment.

A Message was received from the President, of an Executive character; and which, in that character, the Senate proceeded to consider with closed doors.

In a few minutes the doors were again opened; and

Mr. MANGUM rose and addressed the Senate, expressing the deep sense of gratitude he entertained for the uniform courtesy and kindness that body had extended to him whilst he had the honor of presiding over its deliberations during the protracted and excited session. After concluding, he adjourned the Senate *sine die*.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, August 31.

#### Adjournment.

Mr. CUSHING, from the Joint Committee appointed to wait on the President of the United States, and inform him that the two Houses of Congress, having finished the business before them, were ready to adjourn, unless he had some further communications to make, reported that they had performed the duty assigned them, and had been answered by the President that he had no further communications to make to Congress.

On motion by Mr. ADAMS,

*Ordered*, That a message be sent to the Senate, informing them that the House, having finished the business before it, was ready to adjourn.

On motion by Mr. HOPKINS, the House adjourned *sine die*.

## PROCEEDINGS OF THE SENATE IN SECRET SESSION.

### IN SENATE.

THURSDAY, August 11.

*Message from the President of the United States, transmitting the Treaty with Great Britain to the Senate of the United States.*

*To the Senate of the United States :*

I have the satisfaction to communicate to the Senate the result of the negotiations recently had in this city with the British Minister special and extraordinary.

These results comprise—

1st. A treaty to settle and define the boundaries between the territories of the United States, and the possessions of her Britannic Majesty in North America, for the suppression of the African slave-trade, and the surrender of criminals fugitive from justice in certain cases.

2d. A correspondence on the subject of the interference of the colonial authorities of the British West Indies with American merchant vessels driven by stress of weather, or carried by violence, into the ports of those colonies.

3d. A correspondence upon the subject of the attack and destruction of the steamboat *Caroline*.

4th. A correspondence on the subject of impressment.

If this treaty shall receive the approbation of the Senate, it will terminate a difference respecting boundary which has long subsisted between the two Governments, has been the subject of several ineffectual attempts at settlement, and has sometimes led to great irritation, not without danger of disturbing the existing peace. Both the United States, and the States more immediately concerned, have entertained no doubt of the validity of the American title to all the territory which has been in dispute; but that title was controverted, and the Government of the United States had agreed to make the dispute a subject of arbitration. One arbitration had been actually had, but had failed to settle the controversy; and it was found, at the commencement of last year, that a correspondence had been in progress between the two Governments for a joint commission, with an ultimate reference to an umpire or arbitrator, with authority to make a final decision. That correspondence, however, had been retarded by various occurrences, and had come to no definite result when the special mission of Lord Ashburton was announced. This movement on the part of England afforded, in the judgment of the Executive, a favorable opportunity for making an attempt to settle this long-existing controversy by some agreement or treaty, without further reference to arbitration. It seemed entirely

proper that, if this purpose were entertained, consultation should be had with the authorities of the States of Maine and Massachusetts. Letters, therefore, of which copies are herewith communicated, were addressed to the Governors of those States, suggesting that commissioners should be appointed by each of them, respectively, to repair to this city and confer with the authorities of this Government, on a line, by agreement or compromise, with its equivalents and compensations. This suggestion was met by both States in a spirit of candor and patriotism, and promptly complied with. Four commissioners on the part of Maine, and three on the part of Massachusetts (all persons of distinction and high character) were duly appointed and commissioned, and lost no time in presenting themselves at the seat of Government of the United States. These commissioners have been in correspondence with this Government during the period of the discussions; have enjoyed its confidence and freest communications; have aided the general object with their counsel and advice; and, in the end, have unanimously signified their assent to the line proposed in the treaty.

Ordinarily, it would be no easy task to reconcile and bring together such a variety of interests in a matter in itself difficult and perplexed; but the efforts of the Government in attempting to accomplish this desirable object, have been seconded and sustained by a spirit of accommodation and conciliation on the part of the States concerned, to which much of the success of these efforts is to be ascribed.

Connected with the settlement of the line of the North-eastern boundary, so far as it respects the States of Maine and Massachusetts, is the continuation of that line along the highlands to the north-westernmost head of Connecticut River. Which of the sources of that stream is entitled to this character, has been matter of controversy, and is of some interest to the State of New Hampshire. The King of the Netherlands decided the main branch to be the north-westernmost head of the Connecticut. This did not satisfy the claim of New Hampshire. The line agreed to in the present treaty follows the highlands to the head of Hall's stream, and thence down that river, embracing the whole claim of New Hampshire, and establishing her title to 100,000 acres of territory more than she would have had by the decision of the King of the Netherlands.

By the treaty of 1783, the line is to proceed down the Connecticut River to the 45th degree of north latitude, and thence west, by that parallel, till it strikes the St. Lawrence. Recent examinations

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having ascertained that the line heretofore received as the true line of latitude between those points was erroneous, and that the correction of this error would not only leave, on the British side, a considerable tract of territory heretofore supposed to belong to the States of Vermont and New York, but also Rouse's Point, the site of a military work of the United States; it has been regarded as an object of importance, not only to establish the rights and jurisdiction of those States up to the line to which they have been considered to extend, but also to comprehend Rouse's Point within the territory of the United States. The relinquishment by the British Government of all the territory south of the line heretofore considered to be the true line, has been obtained; and the consideration for this relinquishment is to enure, by the provisions of the treaty, to the States of Maine and Massachusetts.

The line of boundary, then, from the source of the St. Croix to the St. Lawrence, so far as Maine and Massachusetts is concerned, is fixed by their own consent, and for considerations satisfactory to them; the chief of these considerations being the privilege of transporting the lumber and agricultural products, grown and raised in Maine, on the waters of the St. John and its tributaries, down that river to the ocean, free from imposition or disability. The importance of this privilege, perpetual in its terms, to a country covered at present by pine forests of great value, and much of it capable hereafter of agricultural improvement, is not a matter upon which the opinion of intelligent men is likely to be divided.

So far as New Hampshire is concerned, the treaty secures all that she requires; and New York and Vermont are quieted to the extent of their claim and occupation. The difference which would be made in the northern boundary of these two States, by correcting the parallel of latitude, may be seen on Tanner's maps, (1836,) new atlas, maps Nos. 6 and 9.

From the intersection of the 45th degree of north latitude with the St. Lawrence, and along that river and the lakes to the water communication between Lake Huron and Lake Superior, the line was definitively agreed on by the commissioners of the two Governments, under the 6th article of the treaty of Ghent. But between this last-mentioned point and the Lake of the Woods, the commissioners acting under the 7th article of that treaty found several matters of disagreement, and therefore made no joint report to their respective Governments. The first of these was Sugar island, or St. George's island, lying in St. Mary's River, or the water communication between Lakes Huron and Superior. By the present treaty, this island is embraced in the territories of the United States. Both from soil and position, it is regarded as of much value.

Another matter of difference was the manner of extending the line from the point at which the commissioners arrived, north of Ile Royale, in Lake Superior, to the Lake of the Woods. The British commissioner insisted on proceeding to Fond du Lac, at the south western angle of the lake, and thence, by the river St. Louis, to the Rainy Lake. The American commissioner supposed the true course to be, to proceed by way of Dog River. Attempts were made to compromise this difference, but without success. The details of these proceed-

ings are found at length in the printed separate reports of the commissioners.

From the imperfect knowledge of this remote country at the date of the treaty of peace, some of the descriptions of that treaty do not harmonize with its natural features, as now ascertained. "Long Lake" is nowhere to be found under that name. There is reason for supposing, however, that the sheet of water intended by that name is the estuary at the mouth of Pigeon River. The present treaty, therefore, adopts that estuary and river, and afterwards pursues the usual route, across the height of land by the various portages and small lakes, till the line reaches Rainy Lake, from which the commissioners agreed on the extension of it to its termination, in the north-west angle of the Lake of the Woods. The region of country on and near the shore of the lake, between Pigeon River on the north, and Fond du Lac and the river St. Louis on the south and west, considered valuable as a mineral region, is thus included within the United States. It embraces a territory of four millions of acres, northward of the claim set up by the British commissioner under the treaty of Ghent. From the height of land at the head of Pigeon River, westerly to the Rainy Lake, the country is understood to be of little value, being described by surveyors, and marked on the map, as a region of rock and water.

From the north-west angle of the Lake of the Woods, which is found to be in latitude 45 deg. 23 min. 55 sec. north, existing treaties require the line to be run due south to its intersection with the 45th parallel, and thence along that parallel to the Rocky mountains.

After sundry informal communications with the British minister upon the subject of the claims of the two countries to territory west of the Rocky Mountains, so little probability was found to exist of coming to any agreement on that subject at present, that it was not thought expedient to make it one of the subjects of formal negotiation, to be entered upon between this Government and the British minister, as part of his duties under his special mission.

By the treaty of 1783, the line of division along the rivers and lakes, from the place where the 45th parallel of north latitude strikes the St. Lawrence, to the outlet of Lake Superior, is invariably to be drawn through the middle of such waters, and not through the middle of their main channels. Such a line, if extended according to the literal terms of the treaty, would, it is obvious, occasionally intersect islands. The manner in which the commissioners of the two Governments dealt with this difficult subject may be seen in their reports. But where the line, thus following the middle of the river, or watercourse, did not meet with islands, yet it was liable sometimes to leave the only practicable navigable channel altogether on one side. The treaty made no provision for the common use of the waters by the citizens and subjects of both countries.

It has happened, therefore, in a few instances, that the use of the river, in particular places, would be greatly diminished, to one party or the other, if, in fact, there was not a choice in the use of channels and passages. Thus, at the Long Sault, in the St. Lawrence—a dangerous passage, practicable only for boats—the only safe run is between

the Long Sault islands and Barnhart's island (all which belong to the United States) on one side, and the American shore on the other. On the other hand, by far the best passage for vessels of any depth of water, from Lake Erie into the Detroit river, is between Bois Blanc, a British island, and the Canadian shore. So again there are several channels or passages, of different degrees of facility and usefulness, between the several islands in the river St. Clair, at or near its entry into the lake of that name. In these three cases, the treaty provides that all the several passages and channels shall be free and open to the use of the citizens and subjects of both parties.

The treaty obligations subsisting between the two countries for the suppression of the African slave-trade, and the complaints made to this Government within the last three or four years, (many of them but too well founded,) of the visitation, seizure, and detention of American vessels on that coast by British cruisers, would not but form a delicate and highly important part of the negotiations which have now been held.

The early and prominent part which the Government of the United States has taken for the abolition of this unlawful and inhuman traffic, is well known. By the tenth article of the treaty of Ghent, it is declared that the traffic in slaves is irreconcilable with the principles of humanity and justice, and that both his Majesty and the United States are desirous of continuing their efforts to promote its entire abolition; and it is thereby agreed that both the contracting parties shall use their best endeavors to accomplish so desirable an object. The Government of the United States has, by law, declared the African slave-trade piracy; and, at its suggestion, other nations have made similar enactments. It has not been wanting in honest and zealous efforts, made in conformity with the wishes of the whole country, to accomplish the entire abolition of the traffic in slaves upon the African coast; but these efforts, and those of other countries directed to the same end, have proved, to a considerable degree, unsuccessful. Treaties are known to have been entered into some years ago between England and France, by which the former power, which usually maintains a large naval force on the African station, was authorized to seize, and bring in for adjudication, vessels found engaged in the slave-trade under the French flag.

It is known that, in December last, a treaty was signed in London by the representatives of England, France, Russia, Prussia, and Austria, having for its professed object a strong and united effort of the five powers to put an end to the traffic. This treaty was not officially communicated to the Government of the United States; but its provisions and stipulations are supposed to be accurately known to the public. It is understood to be not yet ratified on the part of France.

No application or request has been made to this Government to become a party to this treaty; but the course it might take in regard to it has excited no small degree of attention and discussion in Europe, as the principle upon which it is founded, and the stipulations which it contains, have caused warm animadversion and great political excitement.

In my message at the commencement of the present session of Congress, I endeavored to state the principles which this Government supports

respecting the right of search and the immunity of flags. Desirous of maintaining those principles fully, at the same time that existing obligations should be fulfilled, I have thought it most consistent with the honor and dignity of the country that it should execute its own laws, and perform its own obligations, by its own means and its own power. The examination or visitation of the merchant vessels of one nation by the cruisers of another, for any purpose except those known and acknowledged by the law of nations, under whatever restraints or regulations it may take place, may lead to dangerous results. It is far better, by other means, to supersede any supposed necessity, or any motive, for such examination or visit. Interference with a merchant vessel by an armed cruiser is always a delicate proceeding, apt to touch the point of national honor, as well as to affect the interests of individuals. It has been thought, therefore, expedient, not only in accordance with the stipulations of the treaty of Ghent, but at the same time as removing all pretext on the part of others for violating the immunities of the American flag upon the seas, as they exist and are defined by the law of nations, to enter into the articles now submitted to the Senate.

The treaty which I now submit to you proposes no alteration, mitigation, or modification of the rules of the law of nations. It provides simply that each of the two Governments shall maintain, on the coast of Africa, a sufficient squadron to enforce, separately and respectively, the laws, rights, and obligations of the two countries for the suppression of the slave-trade.

Another consideration of great importance has recommended this mode of fulfilling the duties and obligations of the country. Our commerce along the western coast of Africa is extensive, and supposed to be increasing. There is reason to think that, in many cases, those engaged in it have met with interruptions and annoyances, caused by the jealousy and instigation of rivals, engaged in the same trade. Many complaints on this subject have reached the Government. A respectable naval force on the coast is the natural resort and security against further occurrences of this kind.

The surrender to justice of persons who, having committed high crimes, seek an asylum in the territories of a neighboring nation, would seem to be an act due to the cause of general justice, and properly belonging to the present state of civilization and intercourse. The British provinces of North America are separated from the States of the Union by a line of several thousand miles; and, along portions of this line, the amount of population on either side is quite considerable, while the passage of the boundary is always easy.

Offenders against the law, on the one side, transfer themselves to the other. Sometimes, with great difficulty, they are brought to justice; but very often they wholly escape. A consciousness of immunity from the power of avoiding justice in this way, instigates the unprincipled and reckless to the commission of offences; and the peace and good neighborhood of the border are consequently often disturbed.

In the case of offenders fleeing from Canada into the United States, the Governors of States are often applied to for their surrender; and questions of a very embarrassing nature arise from these applications. It has been thought highly important, there-

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fore, to provide for the whole case, by a proper treaty stipulation. The article on the subject in the proposed treaty is carefully confined to such offences as all mankind agree to regard as heinous, and destructive to the security of life and property. In this careful and specific enumeration of crimes, the object has been to exclude all political offences, or criminal charges, arising from wars or intestine commotions. Treason, misprision of treason, libels, desertion from military service, and other offences of similar character, are excluded.

And lest some unforeseen inconvenience or unexpected abuse should arise from the stipulation, rendering its continuance, in the opinion of one or both of the parties, not longer desirable, it is left in the power of either to put an end to it at will.

The destruction of the steamboat *Caroline* at Schlosser, four or five years ago, occasioned no small degree of excitement at the time, and became the subject of correspondence between the two Governments. That correspondence having been suspended for a considerable period, was renewed in the spring of the last year; but, no satisfactory result having been arrived at, it was thought proper, though the occurrence had ceased to be fresh and recent, not to omit attention to it on the present occasion. It has only been so far discussed, in the correspondence now submitted, as it was accomplished by a violation of the territory of the United States. The letter of the British minister, while he attempts to justify that violation upon the ground of a pressing and overruling necessity—admitting, nevertheless, that, even if justifiable, an apology was due for it, and accompanying this acknowledgment with assurances of the sacred regard of his Government for the inviolability of national territory—has seemed to me sufficient to warrant forbearance from any further remonstrance against what took place, as an aggression, on the soil and territory of the country.

On the subject of the interference of the British authorities in the West Indies, a confident hope is entertained that the correspondence which has taken place, showing the grounds taken by this Government, and the engagements entered into by the British minister, will be found such as to satisfy the just expectation of the people of the United States.

The impressment of seamen from merchant vessels of this country by British cruisers, although not practised in time of peace, (and, therefore, not at present a productive cause of difference and irritation,) has, nevertheless, hitherto been so prominent a topic of controversy, and is so likely to bring on renewed contentions at the first breaking out of a European war, that it has been thought the part of wisdom now to take it into serious and earnest consideration. The letter from the Secretary of State to the British minister explains the ground which the Government has assumed, and the principles which it means to uphold. For the defence of these grounds, and the maintenance of these principles, the most perfect reliance is placed on the intelligence of the American people, and on their firmness and patriotism in whatever touches the honor of the country, or its great and essential interests.

JOHN TYLER.

WASHINGTON, August 11, 1842.

*Proceedings of the Senate.*

The treaty to settle and define the boundaries between the territories of the United States, and the possessions of her Britannic Majesty in North America, for the final suppression of the African slave-trade, and for the giving up of criminals fugitive from justice, in certain cases, was read twice by unanimous consent.

On motion by Mr. RIVES,

*Ordered*, That the treaty, with the Message and accompanying documents, be referred to the Committee on Foreign Relations, and printed, in confidence, for the use of the Senate.

MONDAY, August 15.

Mr. RIVES, from the Committee on Foreign Relations, to whom was referred, on the 11th instant, the treaty with Great Britain, reported the same without amendment.

On motion of Mr. RIVES,

*Ordered*, That the said treaty be postponed to, and made the order of the day for, Wednesday next, the 17th instant, at 1 o'clock.

WEDNESDAY, August 17.

The Senate proceeded to consider, as in Committee of the Whole, the treaty with Great Britain; and, after debate,

On motion by Mr. RIVES,

*Ordered*, That it be postponed to, and made the order of the day for to-morrow, at half-past eleven o'clock.

SATURDAY, August 20.

Mr. RIVES submitted the following resolution:

*Resolved*, (two-thirds of the Senators present concurring,) That the Senate advise and consent to the ratification of the treaty to settle and define the boundaries between the territories of the United States and the possessions of her Britannic Majesty in North America, for the final suppression of the African slave-trade, and for the giving up of criminals fugitive from justice, in certain cases.

The Senate, by unanimous consent, proceeded to consider the said resolution.

On the question to agree thereto,

It was determined in the affirmative—yeas 39, nays 9.

Those who voted in the affirmative are—

Messrs. Archer, Barrow, Bates, Bayard, Bérrien, Calhoun, Choate, Clayton, Crafts, Crittenden, Cuthbert, Dayton, Evans, Fulton, Graham, Henderson, Huntington, Ker, King, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Preston, Rives, Sevier, Simmons, Smith of Indiana, Sprague, Tallmadge, Tappan, Walker, White, Woodbridge, Woodbury, Wright, Young.

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Those who voted in the negative are—

Messrs. Allen, Bagby, Benton, Buchanan, Conrad, Linn, Smith of Connecticut, Sturgeon, Williams.

So the resolution was agreed to.

*Ordered*, That the Secretary lay the said resolution before the President of the United States.

[The following speeches, on the British Treaty, were addressed to the Senate:]

Mr. Rives said that the Committee on Foreign Relations, to which the treaty had been referred, not having been able, from the shortness of the time allowed by the now advanced stage of the session, and the consequent necessity of early action on the subject, to make a formal and written report, it devolved on him, as the organ of the committee, to state the views and considerations by which the committee had been influenced, in recommending to the Senate to give the constitutional sanction of their "advice and consent" to its ratification. He begged leave to say, in the outset, that, in forming their judgment on the grave question submitted to them, the committee had felt themselves bound, by the most solemn of all obligations, to discard from their minds every consideration but such as appertained to the true interest and honor of their country. They had felt that it would be to betray the trust reposed in them by the Senate, and to show themselves unworthy of the confidence of the country, if they could, for a moment, permit themselves, in pursuit of party objects, or under the influence of personal or political prejudices, to turn aside from the national question, to inquire by whom the treaty had been negotiated, or whose name stood subscribed to it. They have looked to the treaty in itself, isolated from every invidious reference to persons or parties; and have pronounced upon its acceptance or rejection as, in their best judgment, the interest and honor of the nation demand.

The stipulations of the treaty embrace three distinct objects: an exact and permanent definition of the boundaries, where they had been the subject of doubt or dispute, between the territories of the United States, and the adjacent provinces of Great Britain; a plan of co-operation for the more effectual suppression of the slave-trade; and an agreement for mutual surrender, in certain cases, of criminals fugitive from justice. The first of these objects, from its intimate connection with the tranquillity of the frontier, and the peace of the two countries—on several occasions exposed to imminent hazard of interruption, from intrusions on the disputed territory, and the conflicting jurisdiction exercised over it—naturally occupies the foreground of the treaty.

The merits of the controversy respecting our North-eastern boundary, and the respective claims and arguments of the two parties, in regard to it, are too well known to the Senate, (said Mr. R.,) to require any recapitulation of

them at my hands. A brief retrospect of the history of the controversy, however, may be necessary to enable the Senate to comprehend the position of the question at the moment when the negotiations which terminated in this treaty were entered upon.

The second article of the definitive treaty of peace of 1788, describes the North-eastern boundary of the United States as follows: "Beginning at the north-west angle of Nova Scotia, to wit: that angle which is formed by a line drawn due north from the source of the St. Croix River to the highlands; along the said highlands, which divides those rivers that empty themselves into the river of St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River;" and then, pursuing the description of the boundaries of the United States around their whole territory, on the north, the west, and the south, it returns to the eastern boundary of Maine, in the following words: "East by a line to be drawn along the middle of the river St. Croix, from its mouth, in the bay of Fundy, to its source, and from its source, directly north to the aforesaid highlands, which divide the rivers that fall into the Atlantic Ocean from those which fall into the river St. Lawrence."

Nothing could afford a more striking evidence of the extremely defective knowledge of the geography of the country in question, which existed at the time of the signature of the treaty of peace, than the fact, that, in the very first year succeeding the conclusion of the treaty, a serious controversy arose between the high contracting parties as to which was *this river St. Croix*, here called for as a natural boundary between their adjacent possessions. There were three rivers, emptying themselves into Passamaquoddy Bay, a part of the Bay of Fundy, (as it was subsequently formally declared to be,\*) each one of which, it seemed, had, some time or other, passed under the name of St. Croix. This territorial comedy of errors, like all other questions of disputed boundary, was, on several occasions, near producing *tragic* results, by embroiling the authorities and population adjacent to the controverted limits. The most eastern river was claimed by the United States as the true St. Croix—the western by Great Britain. Finally, after lowering over the peace of the frontiers for ten years, this controversy was put in a train of amicable adjustment by the treaty of 1794, (commonly called Jay's treaty,) which provided for the appointment of joint commissioners to determine which was the river truly intended under the name of the St. Croix, in the treaty of peace. The commissioners met, and in 1798 closed their deliberations, by declaring an intermediate river, called *Seoudiac*, to be the true St. Croix of the treaty; which has been, accordingly, ever since recognized and observed as the actual boundary of the United States in that quarter, and to that extent.

\* By the fourth article of the Treaty of Ghent.

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In a very short time after this portion of the North-eastern boundary was ascertained and established, new difficulties and uncertainties arose in following it out, according to the terms of the treaty of peace. The decision of these commissioners, under the treaty of 1794, in identifying the true river St. Croix, and in fixing its source, had established the *terminus a quo*, from which the boundary in question was to be run. But the *terminus ad quem*, to which it was to be continued—to wit: the *highlands* dividing the tributary waters of the St. Lawrence and the Atlantic, which lay due north from the source of the St. Croix—remained to be ascertained; and when they were ascertained, the north-westernmost head of the Connecticut River, (another terminus to which the boundary *along the said highlands* was to be continued,) were also to be identified and established. Both of these *termini* were supposed to be involved in doubt by the actual geography and physical conformation of the country. The highlands described in the treaty, were said to have no *definite* existence in nature; and the various sources of the Connecticut River, and their relative position, produced confusion in determining which was the true north-westernmost source referred to by the treaty of peace. For the “adjustment of these uncertainties,” by the agency of a joint commission formed on the model of that of Jay’s treaty in regard to the St. Croix River, a convention was concluded by Mr. Rufus King with Lord Hawkesbury, in May, 1808, under the instructions of Mr. Madison, then the Secretary of State. This convention received the unanimous advice and consent of the Senate to its ratification, with the exception of its fifth article, relating to the North-western boundary between the Lake of the Woods and the Mississippi River, which, it was apprehended, might conflict with the territorial claims of the United States under the treaty for the purchase of Louisiana from France; which had been concluded twelve days previous to the convention with Lord Hawkesbury, but which fact was not known to either of the negotiators at the signature of the latter. The change thus made by the Senate not being acceded to by the British Government, the convention failed to take effect.

Thus stood the question with regard to the North-eastern boundary, without any new arrangement to obviate or adjust the uncertainties which had arisen, until the treaty of Ghent. By the fifth article of that treaty, it was agreed that two commissioners should be appointed—one by each party—to ascertain and determine where is the point of intersection, or angle called the north-west angle of Nova Scotia, formed by a line drawn due north from the source of the St. Croix to the highlands, as described in the treaty of peace; and also the north-westernmost head of Connecticut River; and to cause the entire boundary, from the source of the St. Croix to the river St. Law-

rence, to be surveyed and marked, according to the provisions of the said treaty of peace; and if these commissioners should differ in opinion on the matters referred to them, then their differences were to be referred to some friendly sovereign or State, to be named for the purpose, whose decision should be final and conclusive on all the matters so referred. The commissioners appointed under the treaty of Ghent having radically differed in their views of the true boundary, a convention was entered into between the two Governments, in September, 1827, for carrying into effect the stipulated reference to some friendly sovereign; agreeing to proceed, in concert, to the choice of such friendly sovereign, and regulating various details connected with the arbitration. The King of the Netherlands was, by the concurrent act of the two Governments, subsequently chosen as the arbiter; and, in January, 1831, he pronounced his award—declaring, in effect, that neither the line claimed by the United States, to the north of the river St. John, nor that claimed by Great Britain, to the south of that river, fulfilled the description of the boundary contained in the treaty of peace; that the stipulations of the treaty were too vague and indeterminate to admit of satisfactory execution, when applied to the actual topography of the country; and that, therefore, “it will be suitable (*il conveniendra*) to adopt as the boundary line of the two States” a line which shall be drawn from the source of the St. Croix till it intersect the river St. John, shall continue along that river to the mouth of the St. Francis; thence along the St. Francis to its south-westernmost head; and thence, by a due west course, to the line claimed by the United States.

This award of the King of the Netherlands, in proposing the adoption of a new boundary, was considered as a departure from the question submitted for his decision by the terms of the reference, and was held, therefore, not to be obligatory on the parties. The Senate of the United States, before whom the award was laid by the President for their advice on the subject, expressed an opinion unfavorable to its acceptance; and from that time down to the special mission of Lord Ashburton, a series of halting and abortive negotiations has been going on between the two Governments, terminating in nothing, and leaving this disturbing controversy as far as ever from settlement; the peace of the two countries, in the mean time, exposed to perpetual danger of interruption, by collisions on the debatable frontier.

Mr. R. said he had thus briefly retraced the history of this controversy, and exhibited the mutual proceedings of the two Governments in regard to it—not with any purpose of weakening or impugning the just title of the United States to the territory claimed by them as being within the limits established by the treaty of peace; on the contrary, he felt in his own mind



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a clear conviction of the justice and validity of the American claim, as resting on the terms of the treaty. He believed that the boundary claimed by the United States fulfilled the literal description contained in the treaty, and that it was the only boundary line which did fulfil that description. He had, therefore, heartily concurred in the resolution unanimously passed in this body, four years ago, affirming our conviction of the right of the United States under the treaty of peace; and such, he was authorized to say, was still the opinion entertained by every member of the committee. But, while this was the opinion of the committee and of the Senate, and, without doubt, of a large majority of the citizens of the United States who have investigated the subject, it is impossible for us, looking at the public and solemn acts of the nation through its recognized organs, now to stand uncompromisingly on the ground of *right*. We have admitted, over and over again, that the question is one open to *doubt and controversy*; and, as such, we have agreed to make it a subject of *arbitration*; and the opinion of the arbiter, however wanting in legal obligation, has yet been pronounced before the world against our claim.

After these various and repeated acts of the national authorities, acknowledging, in one form or another, the doubts and difficulties which stood in the way of the actual demarcation of the boundary in question, according to the provisions of the treaty of 1783, it seems to the committee too late in the day, consistently with a proper regard for the peace of nations and the opinions of the world, to plant ourselves now sternly and inflexibly on the ground of a *clear, manifest, and incontrovertible* right to the precise line of boundary we claim. If the honor of the country, as is now asserted, demanded that the *summum jus* of our claims, in regard to the disputed boundary, should have been rigorously insisted on in the late negotiation, then that honor has been long since irretrievably prostrated in the dust. It was *sacrificed* by the treaty of 1794, by the convention of 1808, by the Ghent negotiations in 1814, by the arbitration arrangement of 1827; it was *betrayed* by Washington, Jefferson, and Madison; *trampled under foot* by every successive administration that has been charged with the foreign relations of the country, from the peace of 1783 to the present day. How would even our hero President, the venerable Jackson—at whose lofty tone in the foreign intercourse of the nation the world stood surprised—how would he stand if tried by this new standard of diplomatic chivalry? During the period of his administration, repeated entries were made on the disputed territory by agents of the neighboring British provincial authorities, who arrested our citizens, seized their property, and transported both one and the other into a foreign jurisdiction. Did he summon the nation to

arms for *this hostile invasion of our territory?*—as it assuredly was, if the principle now so cheaply put forward, of the *incontrovertible* justice and validity of our title to the boundary we claimed, be correct. No, sir; he knew that, however strong might be our conviction of the justice of our claim, that there were *two sides* to the question—the adversary claim resting on the grounds which we had, by the most solemn national acts, recognized to be fair topics of discussion; and that we could not justify ourselves to the moral sense of mankind, in rashly taking the decision of the question into our own hands.

It appears to the committee, therefore, in looking back to the public and solemn acts of the Government, and of its successive administrations, that the time has passed, if it ever existed, when we could be justified in making the precise line of boundary claimed by us the subject of a *sine qua non* negotiation, or of the *ultima ratio* of an assertion by force. Did a second arbitration, then, afford the prospect of a more satisfactory result? This expedient seems to be equally rejected by all parties—by the United States, by Great Britain, and by the State of Maine. If such an alternative should be contemplated by any one as preferable to the arrangement which has been made, it is fit to bear in mind the *risk and uncertainty*, as well as the inevitable delay and expense, incident to that mode of decision. We have already seen, in the instance of the arbitration by the King of the Netherlands, how much weight a tribunal of that sort is inclined to give to the argument of *convenience*, and a supposed *intention* on the part of the negotiators of the treaty of 1783, against the literal and positive terms employed by the instrument in its description of limits. Is there no danger, in the event of another arbitration, that a farther research into the public archives of Europe might bring to light some embarrassing (even though apocryphal) document, to throw a new shade of plausible doubt on the clearness of our title, in the view of a sovereign arbiter? Such a document has already been communicated to the committee; and I feel it (said Mr. R.) to be my duty to lay it before the Senate, that they may fully appreciate its bearings, and determine for themselves the weight and importance which belong to it.

I am far from intimating (said Mr. Rives) that the documents discovered by Mr. Sparks, curious and well worthy of consideration as they undoubtedly are, are of weight sufficient to shake the title of the United States, founded on the positive language of the treaty of peace. But they could not fail, in the event of another reference, to give increased confidence and emphasis to the pretensions of Great Britain, and to exert a corresponding influence upon the mind of the arbiter. It is worth while, in this connection, to turn to what Lord Ashburton has said, in one of his

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communications to Mr. Webster, when explaining his views of the position of the highlands described in the treaty:

"My inspection of the maps, and my examination of the documents," says his Lordship, "lead me to a very strong conviction that the highlands contemplated by the negotiators of the treaty were the only highlands then known to them—at the head of the Penobscot, Kennebec, and the rivers west of the St. Croix; and that they did not precisely know how the north line from the St. Croix would strike them; and if it were not my wish to shorten this discussion, I believe a very good argument might be drawn from the words of the treaty in proof of this. In the negotiations with Mr. Livingston, and afterwards with Mr. McLane, this view seemed to prevail; and, as you are aware, there were proposals to search for these highlands to the west, where alone, I believe, they will be found to answer perfectly the description of the treaty. If this question should unfortunately go to a further reference, I should by no means despair of finding some confirmation of this view of the case."

It is for the Senate to consider (added Mr. Rives) whether there would not be much risk of introducing new complications and embarrassments in this controversy, by leaving it open for another litigated reference; and if the British Government—strongly prepossessed, as its minister tells us it is, with the justice of its claims—would not find what it would naturally consider a persuasive "confirmation of its views of the case" in documents, such as those encountered by Mr. Sparks in his historical researches in the archives of France.

A map has been vauntingly paraded here, from Mr. Jefferson's collection, in the zeal of opposition, (without taking time to see what it was,) to confront and invalidate the map found by Mr. Sparks in the Foreign Office at Paris; but, the moment it is examined, it is found to sustain, by the most precise and remarkable correspondence in every feature, the map communicated by Mr. Sparks. The Senator who produced it, could see nothing but the microscopic dotted line running off in a north-easterly direction; but the moment other eyes were applied to it, there was found, in bold relief, a strong red line, indicating the limits of the United States according to the treaty of peace, and coinciding, minutely and exactly, with the boundary traced on the map of Mr. Sparks. That this red line, and not the hardly visible dotted line, was intended to represent the limits of the United States according to the treaty of peace, is conclusively shown by the circumstance, that the red line is drawn on the map all around the exterior boundary of the United States;—through the middle of the Northern Lakes, thence through the Long Lake and the Rainy Lake to the Lake of the Woods; and from the western extremity of the Lake of the Woods to the river Mississippi; and along that river, to the point where the boundary of the United

States, according to the treaty of peace, leaves it; and thence, by its easterly course, to the mouth of the St. Mary's, on the Atlantic.

Here, then, is a most remarkable and unforeseen confirmation of the map of Mr. Sparks, and by another map of a most imposing character, and bearing very high marks of authenticity. It was printed and published in Paris in 1784, (the year after the conclusion of the peace,) by Lattré, *graveur du Roi*, (engraver of maps, &c., to the King.) It is formally entitled, on its face, a "map of the United States of America, according to the treaty of peace, 1783."—(*Carte des Etats Unis de l'Amérique, suivant le traité de paix de 1783.*) It is "dedicated and presented" (*dediée et présentée*) "to his Excellency Benjamin Franklin, Minister Plenipotentiary of the United States of America, near the court of France," and while Dr. Franklin yet remained in Paris; for he did not return to the United States till the spring of the year 1785. Is there not, then, the most plausible ground to argue that this map, professing to be one constructed "according to the treaty of peace of 1783," and being "dedicated and presented" to Dr. Franklin, the leading negotiator who concluded that treaty, and who yet remained in Paris while the map was published, was made out with his knowledge, and by his directions; and that, corresponding as it does *identically* with the map found by Mr. Sparks in the Archives of the Foreign Affairs in Paris, they both partake of the same presumptions in favor of their authenticity?

A question of disputed boundary between adjacent territories, now rapidly filling up with a hardy and enterprising population, is one attended with constant danger to the peace of the two nations. The acts of ill-advised individuals, of small detachments of troops, of subordinate local authorities, may, at any moment, bring on a conflict, in which the two countries would be committed to the stern issues of war, against their own deliberate policy and will. How near this catastrophe was being brought about three years ago, on the occasion of what was called the Aroostook war, I need not remind the Senate. For terminating this thorny and long-protracted controversy, so fraught with mischiefs and dangers to both countries, the failures of the past prove that the only expedient now left is the conventional establishment of a new and well-defined boundary line. All attempts to effect an arrangement of this kind hitherto have been rendered unavailing, by the impossibility of obtaining the assent of the States of Maine and Massachusetts—one of them claiming the rights of sovereignty and jurisdiction, as well as soil; the other an original and undivested interest in the soil of the disputed territory. Under the principles of our federative system, the national authority has been held incompetent, by means of a convention with a foreign power or otherwise, to change the boundaries, and, in effect, alienate a portion of the territory of one of the members

of the Union, without its formal and stipulated assent. This fundamental obstacle, which, through so long a series of abortive negotiations, has continued to keep open an ancient and dangerous controversy with a foreign power, has at length, by a fortunate combination of circumstances, and happy reconciliation of jarring interests, been overcome. Both Maine and Massachusetts, through their several commissioners furnished with full powers for the purpose, have given their final assent to the new boundary line, separating their territory from that of the adjacent British provinces, which is proposed to be established by the treaty before us.

The Committee on Foreign Relations (said Mr. Rives) is clear in the opinion, that an arrangement so sanctioned, after the numberless perplexities and impediments which have heretofore and so long obstructed a satisfactory adjustment of the question, ought not to be lightly disturbed by the action of this body. On looking into the arrangement itself, they see nothing in it incompatible with the character of a fair, just, and reasonable compromise, under all the circumstances of difficulty and embarrassment which surrounded the subject.

In analyzing the details of this arrangement, it appears that seven-twelfths in *quantity* of the disputed territory have fallen to the share of Maine—in *value*, a far larger proportion. The lands allotted to Great Britain are, for the most part, barren and unproductive; deriving their chief (if not sole) importance from the more direct and convenient communication they afford between her provinces, and the greater breadth of border they give her on the St. Lawrence. These, indeed, are the essential objects she professed to have in view. On the other hand, the lands reserved to the State of Maine are, many of them, of great fertility, and all of them abound in fine timber. But their actual commercial value must depend, after all, on the facilities of a cheap transportation to convey their agricultural produce, and especially their heavy lumber, to market. Hence the free navigation of the St. John to the ocean is of vital importance to the upper parts of the State of Maine; and the stipulation to receive and treat their productions on a footing of equal favor with the produce of the colonies, enhances still farther the value of this grant. The free navigation of the St. John formed no part of the award of the King of the Netherlands; and in every practical view, therefore, the arrangement now proposed possesses marked advantages for the State of Maine over that of the award, which it is now attempted to exalt so much in the comparison. On this point, we have the highest possible evidence—the decision of the party most deeply interested—of Maine herself. It is apparent, from the correspondence before us, that Lord Ashburton was, at all times, ready to enter into an arrangement on the naked basis of the award

of the King of the Netherlands, and that the commissioners of Maine were as steady and unwavering in their repugnance to it; and I am authorized explicitly to state the fact, that the three-fold option was distinctly presented to the commissioners—of the *award*, the *arbitration*, and the *arrangement now before us*. They deliberately elected the last; and most wisely and sagaciously, in my opinion, did they decide.

Looking at the arrangement as a *national* question, and as the interests of the Union at large are concerned, its advantages, in a sober and candid view of things, appear to the committee equally obvious. Will any gentleman hesitate to say that the important territorial concessions, and the quieting of contested boundaries all along the Northern frontier of the United States, from the head of Connecticut River to the western extremity of Lake Superior, including the surrender of the *unquestionable* British title to the ownership of by far the most important military position upon our whole frontier, (Rouse's Point,) are not cheaply purchased by the paltry sum to be paid to Maine and Massachusetts for their assent to the new boundary? Have honorable gentlemen, who find so much fault with this arrangement, forgotten that General Jackson was willing, and actually entered into an agreement, to pay to Maine and Massachusetts—not the pittance of three hundred thousand dollars—but an indemnity equivalent to a million and a quarter of dollars, if they would acquiesce in the award of the King of the Netherlands.

But it is said that the arrangement in question, by giving to Great Britain the narrow strip of wild and desolate land on the eastern side of the highlands, from the head waters of the St. Francis River to the Metjarmette portage, surrenders a line of *military positions*, which, at the same time, *command Quebec and cover the State of Maine!* But for this unlucky treaty, Mr. President, these important discoveries in military topography, I venture to say, would never have been made. We have had able and scientific reports, from time to time, on the defences of our inland frontier, from boards of officers, consisting of the first professional men in America, who are well acquainted with the country in question, and all its military attributes and relations. And yet, in not one of these reports have we had the remotest hint of these commanding military positions—facing, as they do, the St. Lawrence at points below Quebec, where nothing would be gained if you were to reach it, and on the other side looking down on a sterile region and boundless forests, where armies could neither be moved nor subsisted, and would, therefore, never attempt to penetrate!

No, sir: Great Britain obtains nothing by the new boundary agreed upon, but a more direct and convenient communication between her upper and lower provinces, and a strip of

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alternate rock and morass, which simply serves to eke out, by added space, her border along the St. Lawrence. And are these such boons that the national honor or safety forbids they should not be granted, for fair equivalents, to a neighboring power, in the compromise and adjustment of a disputed boundary, which has been the subject of controversy for half a century? We have always admitted that the boundary claimed by us was a most inconvenient one for Great Britain, by interrupting the communication between her provinces; and we have never been so churlish a neighbor as to insist on holding this advantage, against every proposition of compromise and mutual accommodation. I cannot divest myself of the consciousness that we are the stronger power on this continent, and I am not afraid to do what the spirit of good neighborhood and manly intercourse requires, when appealed to by a corresponding disposition; and it does seem to me that, while Great Britain is freely surrendering to us an invaluable military position—her title to which, if she chose to insist on it, is above all question—(I mean Rouse's Point)—a position which is pronounced, by the first military officers in our service, (in communications now before me,) to be the great *strategic* point on our Northern frontier—the *key* in our hands, to the Canadas; in *theirs*, to the heart of our own country; and, therefore, "above all price," either for attack or defence; it would be ungracious, indeed, and unworthy alike of our honor and our strength, if we were doggedly to refuse the slightest relaxation from the rigor of our claims, even for an obvious mutual convenience.

We come now (said Mr. RIVES) to that portion of the treaty which relates to the suppression of the African slave-trade. There is no nation under the sun which has shown, through her whole history, more anxiety for the extinction of this odious and revolting traffic than the United States; and none have, therefore, a deeper interest, historical and political, in the consummation of the great work in which they led the way. Not to speak of the various and repeated acts of the Legislatures of the several States, while they were yet colonies of Great Britain, to arrest and put an end to this cruel traffic—acts rendered inoperative by what my own State (Virginia) denounced at the time to be "an inhuman use of the royal negative," and which she specially set forth among the wrongs and grievances which impelled her to the establishment of an independent Government;—not to speak of acts of this sort, with which our ante-revolutionary history abounds,—it is sufficient to say that the Government of the Union, from the moment of its establishment under the existing constitution, has steadily devoted itself to the accomplishment of the same great object. While the Christian States of Europe still tolerated, and some of them even encouraged, this revolting commerce, the United States,

first among the nations of the earth, pronounced its formal condemnation by law; and, following up this condemnation, as occasion required, with new penal sanctions, combined with active measures of surveillance and repression, they finally gave to the world the striking example of a crowning act of legislative energy, by which they affixed the brand of *piracy* to the slave-trade, declaring that any citizen of the United States found engaged in it, whether on board an American or foreign vessel, or any foreigner on board an American vessel, so employed, "should be adjudged a *pirate*, and suffer *death* as such."

Great Britain early embraced, and has till now perseveringly adhered to the opinion, that the mutual concession of a right of search, to be exercised by the armed cruisers of each party over the merchant vessels of the others, is the only effectual means of putting an end to this infamous traffic. The United States, on the other hand, unable to forget the serious wrongs they had so recently experienced from the abusive exercise of the right of search; jealous, above all things, of the immunity of their flag, and of the general freedom of the seas—the common and equal inheritance of all nations—have been unwilling to compromise these great interests, by entering into an arrangement involving so vital an innovation upon the established maritime code; especially as they believed other means were to be found, no less effectual, for the accomplishment of the common object of the suppression of the slave-trade. Great Britain, in the mean time, succeeded in making treaties with Spain, Portugal, and the Netherlands, for the mutual right of search. And other European States having, from time to time, come into the same arrangement, the United States are now the only considerable maritime power that has continued to refuse its accession to a system which they could not but regard as compromising, in a high degree, the general freedom of the seas. It has thus, doubtless, happened that the American flag has been, in many instances, fraudulently used to cover vessels really belonging to States who are parties to the mutual grant of the right of search, from the exercise of that right; and, to prevent this evasion, the Government of Great Britain recently put forth a pretension of alarming extent, and which we have resisted, and must ever resist, as wholly unsustainable upon any just principle of public law; to wit, that her cruisers have the right to board and detain vessels sailing under the American flag, when they shall judge it proper to do so, to ascertain, by an examination of their papers, whether they are truly and *bona fide* American or not.

This was the state of things existing at the commencement of the present session of Congress, when the President laid before us the correspondence which had taken place on the subject of this new pretension between our Minister at London, and Lord Palmerston and

Lord Aberdeen, successively her Majesty's Secretaries of State for Foreign Affairs. The message of the President, referring to the same pretension, held the following emphatic and unequivocal language:

"However desirous the United States may be for the suppression of the slave-trade, they cannot consent to interpolations into the maritime code, at the mere will and pleasure of other Governments. We deny the right of any such interpolation to any one or all the nations of the earth, without our consent. We claim to have a voice in all amendments or alterations of that code; and when we are given to understand, as in this instance, by a foreign Government, that its treaties with other nations cannot be executed without the establishment and enforcement of new principles of maritime police, to be applied without our consent, we must employ a language neither of equivocal import, nor susceptible of misconstruction. American citizens, prosecuting a lawful commerce in the African seas, under the flag of their country, are not responsible for the abuse or unlawful use of that flag by others, nor can they rightfully, on account of any such alleged abuse, be interrupted, molested, or detained, while on the ocean."

Here, then, is the answer of the American Government, in the highest and most authoritative form known to its official intercourse, to the pretension advanced on the part of Great Britain, in the discussion with our late Minister at London. It is an unequivocal negation of that pretension, in principle and in practice; and leaves nothing to be done which could announce in more emphatic terms our determined resistance to it.

The vital question of the independence of our flag being thus disposed of, by the prompt, unequivocal, and final answer of the American Government to this new pretension, other considerations of an important character present themselves to view. It is shown, by the correspondence just referred to, and other incontestable proofs, that the American flag has been extensively abused to cover this iniquitous traffic—sometimes by American citizens, notwithstanding the severity of our penal enactments; but more frequently by the subjects of other powers—by Spanish, Portuguese, or Brazilian slave-dealers, who assume the American colors to protect them from the right of search, to which they would be subject under their own national flags.

Seeing, then, that our flag has been shamelessly abused to cover an infamous traffic, which our laws were the first to denounce and pursue with adequate penalties—that it has been made a shelter to screen from the punishment due to their crimes the most profligate of the human race,—does not the national honor demand that we should give to the world an assurance of our determination to cleanse and preserve it from this horrible pollution? We have, upon considerations of the highest state policy, and from a jealous solicitude to maintain the freedom of the seas, refused to concede that mutual right of search

which other nations have consented to yield, as an instrument for the suppression of the slave-trade. We have, with still stronger determination, and upon impregnable grounds of public law, declared our resistance to the new pretension of subjecting our flag to visitation and detention, for the alleged purpose of carrying into execution the agreements of other powers, to which we have refused to become a party. Under these circumstances, is it not due to the character of the American people, pledged by all their past history to the great cause of the final suppression of the African slave-trade, that, while rejecting the plans proposed by other Governments for this object, we should come forward with one of our own, which will afford a complete guarantee against the prostitution to which we have seen our flag so vilely exposed, and which will, at the same time, bring the most efficient means to the general extirpation of this odious traffic, without intrenching on the liberty of the seas and the established principles of maritime law?

Considerations and sentiments such as these, doubtless suggested the arrangement contained in the treaty. By that arrangement, it is stipulated that the two powers shall each maintain a squadron of not less than eighty guns on the coast of Africa, to enforce, *separately and respectively*, the laws and obligations of each country for the suppression of the slave-trade: the two squadrons to be perfectly *independent* of each other; but, at the same time, to act in *concert and co-operation* for the attainment of the common object, under such orders as shall, from time to time, be given by their respective Governments. And it is farther stipulated, that the two parties will unite in all becoming representations and remonstrances to any power within whose dominions markets for the purchase of African slaves may be still allowed to exist, to close such markets at once and forever. In virtue of this arrangement, (which is limited to five years, if either party shall wish then to terminate it,) each power will, separately and independently, exercise the necessary supervision and police over all vessels sailing under its own flag; neither being permitted to visit or search the vessels of the other; but the presence of the two squadrons, always on the alert, and acting in friendly concert, will afford, by their vigilant oversight, complete security against the use of the flag of either power to cover the prohibited traffic, and will, at the same time, give protection to the merchant vessels of each when necessary, from all unlawful interruption or molestation.

This arrangement is adapted to meet every exigency of the case, and reconciles the most vigorous measures for the suppression of the slave-trade, with a sacred regard for the independence and immunity of the national flag. It vindicates from all suspicion the sincerity of the United States; which their persevering and solitary opposition, for a long time, to the mutual concession of the right of search, for

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the more effective pursuit and detection of the traffic, exposed to injurious doubts and misconstruction. At the same time, it has the merit of a strict fidelity to American principles. It is, indeed, the identical plan which, when Lord Castlereagh was so earnestly insisting on a mutual right of search as the only effectual means for the suppression of the slave-trade, President Monroe caused to be presented, as the *American contre-projet*—which, however, did not prevent his Lordship from recurring to, and urgently pressing, again and again, his favorite *right of search*.

The incidental advantages attending this arrangement, in the support and protection which the presence of an American squadron will give to our growing commerce on the coast of Africa—a commerce susceptible of the most beneficial developments, through the civilized colonial settlements already established there—constitute an important additional recommendation of it. This consideration early attracted the attention of the proper department; and we see, from the report of the Secretary of the Navy at the commencement of the session, that he proposed to enlarge materially the number of vessels employed on the African station, as well in reference to this object, as for the suppression of the slave-trade. The extent of the squadron stipulated to be maintained there, is probably not greater than the Secretary would have deemed expedient in any event; and the expense will be amply paid in resulting benefits to the commerce of the country.

The last stipulation in the treaty which remains to be noticed, is that by which the parties agree mutually to surrender fugitives from justice, in certain cases. An arrangement of this sort between neighboring States, whose territories border on each other through an extended boundary—presenting to offenders great facilities of escape from one jurisdiction into the other—seems to be urgently demanded by the interests of peace, law, and social order. So just and proper is it in itself, that some writers of high authority on the law of nations have regarded it as a matter of absolute obligation, independently of treaty stipulations. The modern and better opinion, however, (considering how diversified, and often arbitrary, is the penal legislation of different countries,) is, that there is no *obligation* to surrender fugitives from the criminal justice of one country taking refuge in another, but in virtue of positive and precise compact. The want of some conventional arrangement of this sort between the United States and Great Britain, has been particularly felt in the States of the Union adjacent to the Canadas and other British possessions on the continent, where the prospect of the easy impunity gained by passing from one side to the other of the boundary line, has been found to operate as a great temptation and encouragement to crime. Several of those States have manifested an

earnest desire for such a reciprocal arrangement between the two Governments. The stipulation in the treaty, it will be seen, is confined exclusively to crimes of an aggravated character against life or property—such as murder, robbery, piracy, and some two or three other enumerated offences, carefully pretermittting all political offences; and lest some unforeseen abuse or inconvenience should arise in the practical administration of the agreement, the right is reserved to either party to terminate it at will.

This article closes the circle of matters embraced by the treaty. There are other questions, of much interest to both countries, which have formed the subject of an important correspondence between the Secretary of State and the special minister of Great Britain. This correspondence has been laid before the Senate with the treaty, and must necessarily enter into their consideration in disposing of the treaty itself. It has, therefore, attracted the careful attention of the committee; and they have seen, with pleasure, that there has been an amicable and honorable understanding, or an important advance to such an understanding ultimately, on each of the questions which formed the topic of that correspondence.

Mr. CONRAD rose and said—

It was not my intention, Mr. President, to take any part in the debate on this treaty; but as I have come to the determination to vote against it, I feel bound to assign my reasons for that vote.

The chairman of the Committee on Foreign Affairs, and the Senator from Massachusetts, (Mr. CHOATE,) have vied with each other in eulogizing this treaty as a *chef d'œuvre* of diplomatic skill. I cannot perceive, however, in what respect it is so advantageous to the country.

It contains three principal stipulations: 1st. The first and most important is, that which fixes our North-eastern boundary. 2d. It obliges us to maintain a naval armament on the coast of Africa, to aid in the suppression of the slave-trade; and, lastly, it provides for the mutual surrender, in certain cases, of fugitives from justice.

In regard to the first of these provisions, I believe it is admitted, on all hands, that the line agreed upon falls far short of our pretensions, and is rather a compromise of the question than a settlement of it, according to our interpretation of the treaty of 1783. There probably never was a period, since the commencement of the controversy, when a compromise could not have been effected on as favorable terms.

The second stipulation, although in form a reciprocal engagement, is, in point of fact, a concession on our part. Great Britain already maintains, and would, in the absence of any such stipulation, continue to maintain on the coast of Africa a much larger naval force than

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she binds herself to do by this treaty. Permit me to observe, too, Mr. President, that, however willing I may be, by every proper means, to prevent the prostitution of our flag to this odious traffic, I would much have preferred that whatever we did on this subject should be our own spontaneous act, instead of appearing to have been extorted from us by Great Britain—by that country which, after having long usurped the police of the seas, has recently wheedled or intimidated one-half of Europe into an acknowledgment of this preposterous claim. I should have preferred to see our country maintain the proud attitude which France, encouraged by the firmness of our minister, has taken on this subject, and conceded nothing where nothing could rightfully be demanded.

The third provision is that which provides for the surrender of criminals in certain cases; in regard to which I shall only observe, that it is a provision at least as advantageous to Great Britain as to us, and cannot, therefore, be viewed as a stipulation in our favor.

This is the substance of the treaty. I cannot perceive in it those advantages that some gentlemen have professed to do. My objections to it, however, are not so much on account of what it does, as of what it does not contain.

Mr. President, there were three subjects of difference between this country and Great Britain, the prompt adjustment of which was deemed peculiarly urgent, as they all threatened hourly to disturb the harmony of the two countries—the settlement of our North-eastern boundary; the controversy growing out of the destruction of the *Caroline*; and, lastly, that arising out of the seizure and liberation of slaves belonging to citizens of the United States. When it was known that a special minister was to be deputed to this country, for the purpose of restoring and maintaining the harmony of the two countries, no one doubted that his mission embraced the settlement of all these questions, if none others. I confess, therefore, that when the treaty was read at your table, and I discovered that one, and not the least important of these questions, (I mean that relative to the seizure of our slaves,) was left precisely where it stood before the arrival of the British ambassador, I was equally surprised and disappointed. No less than five cases have already occurred, in which vessels bound from one port in the Union to another, by having slaves on board have been driven, either by stress of weather, or by the violence of the slaves themselves, into some one of the small islands in the Bahama channel; and, in every instance, the slaves have been violently taken from the possession of their owners, and set at liberty by the colonial authorities. In the two first cases, the British Government, after a protracted negotiation, indemnified the owners. The third case was that of the schooner "*Enterprise*," which occurred some six or seven years ago. Application was again made

for indemnity; and what was the answer of the British Government? In substance, that this confiscation of American property was justified by a recent act of Parliament abolishing slavery in their West India possessions, and that thenceforward no indemnity was due our citizens for slaves thrown by unavoidable accidents upon their shores.

As soon as this decision of the British Government was made known to ours, the distinguished Senator from South Carolina (Mr. CALHOUN) introduced the following resolutions; which, on the 15th April, 1840, were unanimously adopted by this body:

"Resolved, That a ship or vessel on the high seas, in time of peace, engaged in a lawful voyage, is, according to the laws of nations, under the exclusive jurisdiction of the State to which her flag belongs; as much so, as if constituting a part of its own domain.

"Resolved, That if such ship or vessel should be forced by stress of weather, or other unavoidable cause, into the ports and under the jurisdiction of a friendly power, she and her cargo, and persons on board, with their property, and all the rights belonging to their personal relations, as established by the laws of the State to which they belong, would be placed under the protection which the laws of nations extend to the unfortunate under such circumstances.

"Resolved, That the brig *Enterprise*, which was forced unavoidably, by stress of weather, into Port Hamilton, Bermuda Island, while on a lawful voyage on the high seas, from one port of the Union to another, comes within the principles embraced in the foregoing resolutions; and that the seizure and detention of the negroes on board, by the local authorities of the island, was an act in violation of the laws of nations, and highly unjust to our citizens to whom they belong."

I well recollect the satisfaction with which the adoption of these resolutions was hailed by the Southern portion of this Union. The promptitude and unanimity with which they were adopted proved that the "still small voice" of patriotism could yet make itself heard amid the din of party strife, with which these halls perpetually resound. We flattered ourselves that Great Britain would now pause in her course of insolence and aggression; and that the petty functionaries of an insignificant island, almost in sight of our coast, would no longer beard the majesty of this republic.

More than two years ago, therefore, this body solemnly resolved, in substance, that the seizure and detention of slaves, under the circumstances of those on board the *Enterprise*, was an act of injustice to our citizens, a violation of the law of nations, and equivalent to an invasion of our territory. This resolution was adopted, after a protracted negotiation for redress had eventuated in a rejection of the demand. Two nations could not be brought nearer to a state of hostility by any act short of a positive declaration of war, than Great Britain and this country were by the adoption of these resolutions. In fact, this left but one



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alternative—redress or war. Foreign nations had, therefore, the right to conclude (and I well recollect they did conclude) that the wrongs complained of would be redressed, or war would ensue. But what effect did those resolutions produce in the country against which they were fulminated? Scarcely had their thunder died away on the distant shores of Great Britain, when, as if in defiance of our threats, another outrage, precisely similar in character to the one complained of, is committed. The schooner *Hermosa*, bound on a voyage from Norfolk to New Orleans, with a number of slaves on board, is wrecked on one of the reefs in the Bahama channel. All the persons on board, including the slaves, are taken from the wreck by an English "*wrecker*," and carried to Nassau. As soon as they arrive there, a file of soldiers, wearing the British uniform, commanded by a British officer, march on board the wrecker, order the slaves ashore, and carry them before some petty magistrate; by whose supreme authority, and in spite of the remonstrances of the American consul, they are set at liberty. These facts being established by incontestable evidence, application for indemnity was made to the British Government. Before any answer had been given to this application, the case of the "*Creole*" occurred.

So far as the claim to indemnity is concerned, the circumstances of this case were not so strong as those in the cases of the "*Enterprise*" and the "*Hermosa*;" for, in this case, the *liberation* of the slaves was not the act of the British Government, nor did it even occur within their jurisdiction. It occurred on the high seas, and was effected by the slaves themselves. The atrocities, however, with which it was attended, and the aid and protection afforded to the authors of them, justly excited public indignation, and momentarily roused our Government from its lethargy. An urgent demand for redress was made, enforced by a letter from the Secretary of State, containing an able exposition of the law of nations applicable to the question, and a complete refutation of the arguments by which the British ministry had, in the case of the "*Enterprise*," already referred to, attempted to justify the seizure of American property by a British statute. I appeal to you, Mr. President, whether, at that juncture, any one of the questions pending between this country and Great Britain was deemed more important, or more urgent in its character, than that growing out of these repeated outrages? So far as my own State is concerned, I can venture to say that it stood foremost in the catalogue of grievances of which we had a right to complain. The Legislatures of many of the States (and that of Louisiana among the rest) passed strong resolutions expressive of their sense of these outrages, and of their readiness to vindicate, by a resort to arms, the insulted honor of the country. The swelling tide of public indignation was only arrested by the announcement of the fact that

Great Britain had deputed a special envoy to this country, charged with the settlement of this and all other differences between the two countries; and now we are called upon to ratify a treaty in which this subject is entirely pretermitted! Why is this, sir? I do not think I exaggerate the magnitude of this question, when I affirm that, in whatever light we view it—whether we consider the mere pecuniary considerations connected with it, the interest felt by a large portion of the country in its decision, its exciting and irritating character, and, above all, the principles involved in it—it is by far more important than any of those embraced in the treaty.

And what is the reason assigned for this extraordinary omission? Why, that Lord Ashburton's powers did not embrace the settlement of this question. But why did they not embrace it? Has it not been pending for years? It is true, as Lord Ashburton says, that the case of the *Creole* was only known in England a few days before his departure for this country; but that of the *Enterprise* occurred many years ago; and the resolutions of this body, declaring it a violation of the law of nations, and equivalent to an invasion of our territory, were adopted more than two years prior to his departure. Besides, nothing would have been easier than to have enlarged his powers, had they been found insufficient. No, sir; the true reason for this *casus omisus* in the treaty is to be found in Lord Ashburton's letter. He there says: "There are certain great principles too deeply rooted in the consciences and sympathies of the people of Great Britain, for any minister to be able to overlook; and any engagement I might make in opposition to them would be instantly disavowed." In other words, the sympathies of British abolitionists must not be shocked by having any restraint put upon their humane efforts to excite our slaves to insurrection and bloodshed! Gentlemen refer us to this letter, as containing all that was necessary on this subject. It is true, Mr. President, that, as nothing was intended to be *done*, it was thought necessary, at least, to *say* something. But if it was intended to enter into any binding engagements on this subject, why was it done in the form of a letter? Why was it not inserted in the treaty? I have looked in vain, however, in this letter, for any thing which could be construed either into an apology for the past, or a pledge for the future. So far from admitting the truth of the unanswerable propositions contained in Mr. Webster's letter to him, Lord A. pronounces them to be *startling*; and so far from making any specific pledges, he expressly declares that, if he were to make any, they would be "instantly disavowed by his Government." It is true, he talks of transferring the negotiation to this point to London; but, at the very time when this correspondence was penned, Lord Ashburton and Mr. Webster both were well aware that a negotiation had already taken place at



London, and that the British Government had adhered to their former decision.

I have already stated that application was made by our Government for indemnity for slaves captured on board the schooner *Hermosa*. I hold in my hand copies of the correspondence which took place on this subject between Mr. Everett, our minister at London, and Lord Aberdeen, the Minister of Foreign Affairs of Great Britain.

Here we find (continued Mr. C.) that, as late as the 20th May last, when Lord Ashburton was writing diplomatic notes about adjourning the settlement of this question to London, where "access could be had to all the authorities," the British Government had solemnly decided that "they would not, henceforward, entertain the question of compensation for slaves who may have acquired their liberty by passing under the jurisdiction of British laws;" and "that, slavery being now abolished throughout the British empire, there can be no well-founded claim on the part of any foreigner for compensation in respect to slaves who, under any circumstances whatever, may come into the British colonies." No, not even when the vessels containing them are driven there by tempest, like the *Enterprise*; by shipwreck, like the *Hermosa*; or by mutiny and murder, like the *Creole*. And this inhuman doctrine—this barbarous interpolation of the code of international law, which imposes a penalty upon misfortune, and holds out a premium to insurrection and murder, is promulgated at the very moment when the bloody tragedy recently enacted on board the *Creole* had demonstrated the fatal consequences to which it would inevitably lead.

[Mr. Rives here interrupted Mr. C., and observed that the letter of Lord Aberdeen was a mere reference to a prior decision given in the case of the *Enterprise*.]

It does refer (continued Mr. C.) to that decision; but it expressly adopts and confirms it; and the reference to a case which this body had already pronounced to have been a violation of our flag and of national law, only renders their rejection of our demand as offensive in form, as it was unjust in substance. Why, let me ask, was this letter, rejecting our demand, withheld from the public, when Mr. Webster's letter to Mr. Everett, instructing him to make that demand, and demonstrating its injustice, was paraded in every newspaper in the country, even before it had reached its destination? Why was the smooth, plausible, diplomatic note of Lord Ashburton, who was not authorized to negotiate on this subject, sent to this body along with this treaty; when not a word was said about the plain, unequivocal, peremptory answer of the British minister, about the extent of whose power there could be no dispute? How is it that, until yesterday, the very existence of such a correspondence was unknown to this body? Was it because it was feared that such a letter might prove an obsta-

cle to the ratification of this treaty, and might revive anew those feelings of indignation which these outrages had excited, and which had only slumbered since this negotiation had been set on foot?

Mr. President, the moment that this answer of Lord Ashburton was known here, our Government should have made the settlement of this question a *sine qua non*; and, in case of refusal, have broken off the negotiation at once. Had this course been pursued, depend upon it, the powers of Lord Ashburton would have been found broad enough to cover the case, or have been speedily enlarged. Gentlemen tell us that, in that event, war would have been inevitable; and one would almost fancy that the chairman of the Committee on Foreign Affairs already heard the distant roar of British artillery. For my own part, I entertain no such fears. Embarrassed as she is in her finances, and encumbered with two Asiatic wars, England is not more anxious or better prepared for war than we are. She would never go to war for the sake of maintaining a principle which is only important to her as a means of annoying us, and which the voice of the civilized world would pronounce to be erroneous. Her boasted philanthropy is wonderfully sagacious, and always coincides with, and subserves her interests. But, even did I believe that war would be the inevitable consequence of a rejection of this treaty, I would not permit that belief to influence my decision. True, our finances are deranged, our treasury exhausted, and the administration of our affairs confided to hands that neither possess nor deserve the confidence of the country; but I would prefer to encounter war, under all these disadvantages, than to purchase an ignominious peace by the surrender of a principle of such vital importance. I would not permit any temporary difficulties to create permanent misfortunes. I would treat with Great Britain as I would treat with the weakest power in Christendom; I would treat with her now, as I would when our affairs are most prosperous. I would treat with her, with Tyler for our President, as I would with Washington or Jackson at the helm of Government. And, after all, if we ratify this treaty, will not there still remain sufficient cause for war? Did not this body, two years ago, solemnly declare that there was, when they pronounced the seizure of the slaves on board the *Enterprise* a violation of law and of the rights of our citizens, and equivalent to an invasion of our domain? Since those resolutions, the outrages of the *Hermosa* and the *Creole* have been superadded to that of the *Enterprise*. If there was cause for war then, is there not much greater cause now? If these resolutions be erroneous, repeal them. If the principles they contain be correct, preserve your consistency, and maintain them at whatever sacrifice. But do not ratify this treaty, and leave them in full force—a recorded sentence of self-condemnation.

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Mr. BENTON said: I am opposed to the treaty on many grounds; and first, because it is not a settlement of *all* the questions in dispute between the two countries. We were led to believe, on the arrival of the special minister, that he came as a messenger of peace, and clothed with full powers to settle every thing; and believing this, his arrival was hailed with universal joy. But here is a disappointment—a great disappointment. On receiving the treaty and the papers which accompany it, we find that *all* the subjects in dispute have not been settled; that, in fact, only three out of seven are settled; and that the minister has returned to his country, leaving four of the contested subjects unadjusted. This is a disappointment; and the greater, because the papers communicated confirm the report that the minister came with full powers to settle every thing. The very first note of the American negotiator—and that in its very first sentence, confirms this belief, and leaves us to wonder how a mission that promised so much, has performed so little. Mr. Webster's first note runs thus: "Lord Ashburton having been charged by the Queen's Government with full powers to negotiate and settle all matters in discussion between the United States and England, and having, on his arrival at Washington, announced," &c., &c. Here is a declaration of full power to settle every thing; and yet, after this, only part is settled, and the minister has returned home. This is unexpected, and inconsistent. It contradicts the character of the mission, balks our hopes, and frustrates our policy. As a confederacy of States, our policy is to settle every thing, or nothing; and having received the minister for that purpose, this complete and universal settlement, or nothing, should have been the *sine qua non* of the American negotiator.

From the Message of the President which accompanies the treaty, we learn that the questions in discussion between the two countries were: 1. The Northern boundary. 2. The right of search in the African seas, and the suppression of the African slave-trade. 3. The surrender of fugitives from justice. 4. The title to the Columbia River. 5. Impressment. 6. The attack on the *Caroline*. 7. The case of the *Creole*, and of other American vessels which had shared the same fate. These are the subjects (seven in number) which the President enumerates, and which he informs us occupied the attention of the negotiators. He does not say whether these were all the subjects which occupied their attention. He does not tell us whether they discussed any others. He does not say whether the British negotiator opened the question of the State debts, and their assumption or guarantee by the Federal Government! or whether the American negotiator mentioned the point of the Canadian asylum for fugitive slaves, (of which twelve thousand have already gone there,) seduced by the honors and rewards which they receive, and by the protection which is extended to them. The

Message is silent upon these further subjects of difference, if not of discussion, between the two countries; and, following the lead of the President, and confining ourselves (for the present) to the seven subjects of dispute named by him, and we find three of them provided for in the treaty—four of them not: and this constitutes a great objection to the treaty—an objection which is aggravated by the nature of the subjects settled, or not settled. For it so happens that, of the subjects in discussion, some were general, and affected the whole Union; others were local, and affected sections. Of these general subjects, those which Great Britain had most at heart are provided for; those which most concerned the United States are omitted: and of the three sections of the Union which had each its peculiar grievance, one section is quieted, and two are left as they were. This gives Great Britain an advantage over us as a nation: it gives one section of the Union an advantage over the two others, sectionally. This is all wrong, unjust, unwise, and impolitic. It is wrong to give a foreign power an advantage over us: it is wrong to give one section of the Union an advantage over the others. In their differences with foreign powers, the States should be kept united; their peculiar grievances should not be separately settled, so as to disunite their several complaints. This is a view of the objection which commends itself most gravely to the Senate. We are a confederacy of States, and a confederacy in which States classify themselves sectionally, and in which each section has its local feelings and its peculiar interests. We are classed in three sections; and each of these sections had a peculiar grievance against Great Britain; and here is a treaty to adjust the grievances of one, and but one, of these three sections. To all intents and purposes we have a separate treaty—a treaty between the Northern States and Great Britain; for it is a treaty in which the North is provided for, and the South and West left out. Virtually, it is a separate treaty with a part of the States; and this forms a grave objection to it in my eyes.

Of the nine Northern States whose territories are coterminous with the dominions of her Britannic Majesty, six of them had questions of boundary, or of territory, to adjust: and all these are adjusted. The twelve Southern slaveholding States had a question in which they were all interested—that of the protection or liberation of fugitive slaves in Canada and the West Indies: this great question finds no place in the treaty, and is put off with phrases in an arranged correspondence. The whole great West takes a deep interest in the fate of the Columbia River, and demands the withdrawal of the British from it: this large subject finds no place in the treaty, nor even in the correspondence which took place between the negotiators. The South and the West must go to London with their complaints: the North has been accommodated here. The mission of

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peace has found its benevolence circumscribed by the metes and boundaries of the sectional divisions in the Union. The peace treaty is for one section: for the other two sections there is no peace. The non-slaveholding States coterminous with the British dominions are pacified and satisfied: the slaveholding and the Western States, remote from the British dominions, are to suffer and complain as heretofore. As a friend to the Union—a friend to justice—and as an inhabitant of the section which is both slaveholding and Western, I object to the treaty which makes this injurious distinction amongst the States.

The failure to settle *all* the matters in dispute between the two countries, aggravated as that failure is by the sectional and invidious distinction which it makes among the States, is a circumstance badly calculated to recommend the treaty to the indulgence or to the partiality of the Senate. What it does contain must be good indeed to overbalance so great an objection; but if, instead of being good, its contents are bad—if the sins of commission are to be added to those of omission, then there is no redeeming quality about it, and unqualified condemnation should be its fate. This I hold to be the case. I look upon the treaty to be about equally bad for what it contains, and for what it omits; and, under these two aspects, I shall proceed to give it the close and careful examination which the magnitude of the subject requires.

I have stated one general objection to the treaty—that of not settling all the questions in dispute. I pass over other general objections at present, for the purpose of getting at once to the consideration of its details. These other general objections are numerous and weighty; but I pass them over at present with a mere enumeration, to be attended to hereafter. I name them now, without stopping to dwell upon them. They are: That such a negotiation should have been committed to a sole negotiator, and one not subjected to the approval of the Senate, nor furnished with presidential instructions to limit and guide him, and the citizen of an interested State,—the assumption of this negotiator to treat the question of national boundaries, not as a question of rights under the treaty of independence, but as a matter of bargain and sale, or of grants and equivalents, in the hands of the negotiators; the omission of the American negotiator to keep minutes, or protocols, of his conferences and propositions;—the obscurity and mystery which rest upon the origin and progress of the different propositions;—the assumption of the American negotiator to act for the British negotiator, in presenting the British proposition for the Maine boundary as the American proposition; and the unjustifiable and unfounded arguments with which he pressed that proposition upon the commissioners of the State of Maine, until he succeeded in *victimising* that deserted and doomed State;—the mixing up of incongruous subjects

in the same treaty;—the irregular manner in which the ratification of the treaty has been forestalled by private consultations and conferences with Senators before it was submitted to the Senate;—the solemn and mysterious humbuggery by which Dr. Franklin has been made to play a part in ravishing this ratification from our alarms, and screening the negotiator from responsibility for his gratuitous sacrifices;—the awful apparition of the disinterred map discovered by Mr. Jared Sparks in Paris, with the red marks upon it, and which was showed about to Senators to alarm them into prompt action;—the impressive invocation to secrecy and despatch, lest the British should get wind of the aforesaid map and letter, and thereupon renounce the treaty; when it was perfectly clear, from Lord Ashburton's letter of the 11th of July, that the sagacious old gentleman had already scented out these secret papers, and was ready to claim the benefit of them if new negotiations commenced;—the war-cry which is raised if the treaty is not ratified—a cry which addresses itself to our fears, and not to our judgment, and which would make merchandise of national honor and national rights. I pass over all these additional general objections to the treaty for the present, intending to revert to them in good time, and proceed at once to the consideration of the treaty itself.

The northern boundary is the first subject in the treaty; and on this question, (abandoning all claims of right and title under the treaty of independence—with what propriety will hereafter be seen,) the negotiators proceeded to adjust this boundary upon the principle of compromise and accommodation, ceding and conceding, granting and compensating, until they brought it to the condition in which we find it in the treaty. Waiving, for the present, all remarks upon this assumption of power over our national boundaries, and this demolition of the work of our ancestors, who established these boundaries at the expense of so much blood and treasure, and for the wise purpose of covering their country by a proper frontier: waiving, for the present, all remarks upon this point, I proceed to state the grants and equivalents which were made on each side, and shall consider the value and importance of each. These are, on the side of the British—1. Sugar or St. George's island, in the State of Michigan, between the Lakes Huron and Superior. 2. Rouse's Point, and a strip of territory in the State of New York. 3. A strip of territory in the State of Vermont. 4. A hundred thousand acres of land in the State of New Hampshire. 5. The qualified navigation of the St. John River, within the British dominions. 6. The amount of money received by the British for timber cut and sold on the disputed territory. These are the grants and compensations on the part of the British. On the part of the United States, they are: 1. The important national boundary between the Lake Superior and the Lake of the Woods, so necessary to the fur-

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trade and to the control of the Indians. 2. The four thousand one hundred and nineteen square miles of territory in the State of Maine, being the same and the whole that was awarded to Great Britain by the King of the Netherlands. 3. Eight hundred and ninety-three square miles in Maine, being so much over and above the award of the King of the Netherlands. 4. The establishment of the new boundary, on this side of the awarded line, from Lake Pohenagmook to Metjarmette pass, one hundred and ten miles in length, and wholly within the ancient and natural boundaries of Maine. 5. The surrender of the mountain boundary which covered the State of Maine, and commanded the road to Quebec, from the head of the St. Francis to the Metjarmette pass—say 150 miles in length—and being so much over and above the award of the King of the Netherlands. 6. The navigation of the St. John River within the State of Maine. 7. A right of way over the territory of Maine, to reach the river. 8. The sum of \$300,000 to be paid to the States of Maine and Massachusetts for their loss of territory. 9. The sum of about \$300,000 to be paid to the same States, to reimburse their expenses in protecting the disputed territory against Great Britain. 10. A naval alliance and co-operation with Great Britain for the suppression of the African slave-trade. 11. A diplomatic alliance with the same power, for remonstrating with nations against the slave-trade, and for closing the markets of the world against the traffic in slaves. 12. The delivery of fugitive criminals.

This is the list of the grants and equivalents—these the concessions on each side; the value of which I now proceed to examine, beginning with those on the part of Great Britain.

[Here Mr. B. went into an examination of the concessions.]

This completes my view of the grants and concessions made by Great Britain to the United States by this treaty. They are all of the same character—nothing for Great Britain to grant, trifles for us to receive, and better given up than retained; because undesirable to Great Britain in themselves, and facilitating, by their surrender, the grand object on Maine. Sugar Island in Michigan—Rouse's Point in New York—the ninety-mile strip in Vermont—the 100,000 acres in New Hampshire—though no more desirable to the British than the wooden horse was to the Trojans, are all yielded in a way to conciliate those States, and to leave Maine standing alone, to make head against the British designs upon her territory and boundaries. I say standing alone; for even her mother, the old Bay State, was purchased off from her defence by a pecuniary indemnity for her proprietary rights, and by the honor of furnishing the sole negotiator to meet the extraordinary British special mission. Every thing along the line, from the four millions of fine mineral land beyond Lake Superior

to the long sheep-walk in Vermont, is promptly thrown up; and, from the alacrity with which these concessions (as they are called) are made, and from the anxiety of the sagacious negotiator to please the border States, it may be almost inferred that it was matter of regret that there was no fine mineral land—no sweet little island—no commanding point—no long narrow slip—no pretty little creeks—along the confines of Pennsylvania and Ohio, to be flung up to those two States, in the like gracious manner. In that event, the border States might have been unanimous; and not a chance for a vote against the treaty from the Lake of the Woods to Massachusetts Bay.

Such are the grants and concessions from Great Britain to the United States: few in number, small in value, nothing for her to yield, injurious to her to retain, and already ours as effectually without the treaty as with it. Except the restricted and compensated navigation of the lower St. John, all the rest was already ours—ours by the treaty of 1783, and by the fact that Great Britain wanted none of these slips, or islands, or points of land, with the incumbrance of their republican inhabitants, which she makes a merit of yielding to us. Not so with our grants to her. They are large and valuable—material for her to receive—dangerous and injurious for us to yield—and involving, not only territory, but natural boundaries; and admitting a foreign power within the limits which Nature herself and the treaty of '83 had prescribed for the frontier of an independent nation. And here I frankly accost the subject, and say that, if our negotiator, in forming a general treaty for all the States, and in settling all the subjects in dispute between the two countries, had yielded to the British Crown all that the award of the King of the Netherlands granted, I should have said not a word. But, in transcending that award, which he himself opposed as yielding too much—in giving up more now than the British Government demanded at the time of that award—in doing this, I find reasons for amazement and disapprobation. I am astonished at what I behold; and shall proceed to state the number and the magnitude of the sacrifices we have made; and demand, from the friends of the negotiator, the causes and the reasons for such extraordinary concessions.

[Here Mr. B. proceeded to examine the concessions in detail.]

Such is the catalogue, and such the comparative value of the grants and equivalents (as they are called by our negotiator) which are made by this treaty. It is a long and heavy list on the part of the United States—a short and a light one on the part of Great Britain. So far as the Maine boundary is concerned, I have no more to say; but the other parts of the treaty—what it contains—what it omits—the general objections to it—and the various questions

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which arise upon the correspondence,—all these demand attention, and I proceed to give it.

The suppression of the African slave-trade is the second subject included in the treaty; and here the regret renews itself at the absence of all the customary lights upon the origin and progress of treaty stipulations. No minutes of conference; no protocols; no draughts or counter-draughts; no diplomatic notes; not a word of any kind from one negotiator to the other. Nothing in relation to the subject, in the shape of negotiation, is communicated to us. Even the section of the correspondence entitled "Suppression of the slave-trade"—even this section professedly devoted to the subject, contains not a syllable upon it from the negotiators to each other, or to their Governments; but opens and closes with communications from American naval officers, evidently extracted from them by the American negotiator, to justify the forthcoming of pre-conceived and foregone conclusions. Never, since the art of writing was invented, could there have been a treaty of such magnitude negotiated with such total absence of necessary light upon the history of its formation. Lamentable as is this defect of light upon the formation of the treaty generally, it becomes particularly so at this point, where a stipulation new, delicate, and embarrassing, has been unexpectedly introduced, and falls upon us as abruptly as if it fell from the clouds. In the absence of all appropriate information from the negotiators themselves, I am driven to glean among the scanty paragraphs of the President's Message, and in the answers of the naval officers to the Secretary's inquiries. Though silent as to the origin and progress of the proposition for this novel alliance, they still show the important particular of the motives which caused it. The President says:

"The treaty obligations subsisting between the two countries for the suppression of the African slave-trade, and the complaints made to this Government within the last three or four years (many of them but too well founded) of the *visitation, seizure, and detention* of American vessels on that coast, by *British* cruisers, could not but form a delicate and highly important part of the negotiations which have now been held.

"It is known that in December last, a treaty was signed in *London*, by the representatives of England, France, Russia, Prussia, and Austria, having for its professed object a strong and united effort of the five powers to put an *end to the traffic*. This treaty was not *officially* communicated to the Government of the United States, but its provisions and stipulations are supposed to be accurately known to the public. It is understood to be not yet ratified on the part of France.

"No *application or request* has been made to this Government to become a *party* to this treaty; but the course it might take in regard to it, has excited no small degree of attention and discussion in *Europe*, as the principle upon which it is founded, and the stipulations which it contains, have caused *warm animadversions and great political excitement*.

"In my message at the commencement of the present session of Congress, I endeavored to state the principles which this Government supports respecting the right of search and the immunity of flags. Desirous of maintaining those principles fully, at the same time that existing obligations should be fulfilled, I have thought it most consistent with the honor and dignity of the country, *that it should execute its own laws, and perform its own obligations, by its own means and its own power*. The examination or visitation of the merchant vessels of one nation, by the cruisers of another, for any purpose, except those known and acknowledged by the law of nations, under whatever restraints or regulations it may take place, *may lead to dangerous results. It is far better, by other means, to supersede any supposed necessity, or any motive, for such examination or visit.* Interference with a merchant vessel by an armed cruiser, is always a delicate proceeding, apt to touch the point of national honor, as well as to affect the interests of individuals. It has been thought, therefore, expedient, not only in accordance with the stipulations of the treaty of Ghent, but at the same time as *removing all pretext on the part of others for violating the immunities of the American flag upon the seas, as they exist and are defined by the laws of nations, to enter into the articles now submitted to the Senate.*"

The recitals in this paragraph are of momentous importance. They are conclusive to show that the stipulations into which we have entered, are the price which we have agreed to pay for the privilege of going unsearched upon the coast of Africa, and for the favor of not being officially required to join the quintuple alliance for the suppression of the slave-trade. The two first paragraphs are pregnant of these inferences: the concluding sentences of the last paragraph are conclusive of their truth. The first paragraph recites the fact of the seizure, detention, and visitation of our ships on the coast of Africa by British cruisers: the second ambiguously refers to the five powers alliance, and raises surmises of their designs, which it does not satisfy: the concluding sentences of the last paragraph are sufficiently explicit in the declaration that we join Great Britain to avoid a junction with the five powers! and that we search ourselves, to avoid being searched by the British cruisers! Studiously ambiguous, and profuse of phrases to deceive, while stinted of facts to inform, the Message still lets out enough to betray these hidden and momentous meanings. The treaty has not been *officially* communicated to our Government. But may it not have been unofficially? and if so, by whom? for what purpose? and what are its contents? Instead of answering these pertinent inquiries, so naturally suggested by the declaration of the non-official communication, the sentence obliquely off into the empty supposition that the contents are well known to the public! Why tell us this? why tell us what the public knows? We want to know what the Government knows—how it obtained its information—and what it is required to do. Instead of that, it tells us of the public: and

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then flies off to France, and informs us what we well knew before—that France had not signed. All this is foreign to the point. We want to know what concerns ourselves—whether the five powers are occupied with our affairs—and whether they have shown us their treaty—and for what purpose? The Message says: “No application has been made to the United States to become a *party* to this quintuple alliance, but . . . but . . . but . . . the course we may take is the subject of attention, and discussion, and warmth, and excitement in Europe!” But what all this tends to, and what is required of us to allay this excitement, the Message does not say. Instead of satisfying the curiosity which it excited as to the course of things in relation to us in Europe, it flies back to this continent—reverts to the President’s Message at the commencement of the session—denies the right of search—asserts the immunity of flags—and then most ominously declares that it is better to execute our own laws, and perform our own obligations; and do this by our own means, and by our own power. Why this declaration? Were others about to execute our laws, and perform our obligations, and to use means and powers upon us, not our own? Was this the state of the case? and, if so, why not tell us? Why this paltering and equivocation, unless to hide a damned conclusion which must be suffered, but cannot be told? The next sentence, however, approaches the point. “It is better to supersede the motive and supposed necessity for this delicate and dangerous search.” And, finally, in the last words of the last sentence, the fatal secret is let out—that the articles now before the Senate were entered into for the purpose of “removing all pretext on the part of others for violating the immunities of the American flag in the African seas!” This is the secret; and after this, it stands confessed that our naval and diplomatic alliance with Great Britain is the price which we pay for five years’ exemption from search, and for the favor of not being made a party to the quintuple alliance. The alliance with Great Britain is a substitute for these penalties: and a more ignominious purchase of exemption from outrage never disgraced the annals of an independent nation.

We will now see what is the price we have contracted to pay for these exemptions; and for that purpose I read the 8th and 9th articles of the treaty:

“ARTICLE VIII. The parties mutually stipulate that each shall prepare, equip, and maintain in service, on the coast of Africa, a sufficient and adequate squadron, or naval force of vessels, of suitable numbers and descriptions, to carry in all not less than eighty guns, to enforce separately and respectively the laws, rights, and obligations of each of the two countries, for the suppression of the slave-trade; the said squadrons to be independent of each other, but the two Governments stipulating, nevertheless, to give such orders to the officers commanding their respective forces, as

shall enable them most effectually to act in concert and co-operation, upon mutual consultation, as exigencies may arise, for the attainment of the true objects of this article; copies of all such orders to be communicated by each Government to the other respectively.

“ARTICLE IX. Whereas, notwithstanding all efforts which may be made on the coast of Africa for suppressing of the slave-trade, the facilities for carrying on the traffic, and avoiding the vigilance of cruisers by the fraudulent use of flags, and other means, are so great, and the temptations for pursuing it, while a market can be found for slaves, so strong, as that the desired result may be long delayed, unless all markets be shut against the purchase of African negroes; the parties to this treaty agree that they will unite in all becoming representations and remonstrances with any and all powers within whose dominions such markets are allowed to exist; and that they will urge upon all such powers the propriety and duty of closing such markets effectually at once and forever.”

This is the price! naval and diplomatic alliance with Great Britain! And the eleventh article stipulates that the naval alliance is to continue for five years, and afterwards until one of the parties shall give notice for its cessation. Of course Great Britain will never give the notice. Of course, also, the American Administration which makes it, will never give the notice. The alliance is eternal, unless we break down the party which made it. And this is the course of all revolting and dangerous innovations. It is as temporary measures they are introduced. They are continued imperceptibly; and finally made permanent, and fastened irrevocably upon the country. This will be the case with this alliance, unless the elections of 1844 relieve us from the dominion of the party now in power. And now let us see the extent of the obligations we have incurred to purchase this exemption from search, and to be excused from signing the quintuple treaty. They are: First, to prepare, equip, and maintain in service on the coast of Africa, a squadron of “*at least*” eighty guns, to co-operate with a British squadron in suppressing the slave-trade. Secondly, to unite with Great Britain in diplomatic remonstrances and representations against the purchase of African negroes, with all the powers which still admit such purchases, and urging them to cease the practice, and to close the door against such purchases at once and forever. These are the obligations; and it is seen at once that they constitute an alliance—a double alliance—between the United States and Great Britain. The first sensation of an American in discovering this ominous conjunction, is that of astonishment, indignation, and shame. The farewell words of Washington rush to the mind. He warned us against entangling ourselves in foreign alliance: and here we are deeply entangled, and that with the very nation which, of all the others in the world, is the most to be dreaded.

The consequences of this entanglement are beyond the reach of human foresight, or of

mental divination. It is the commencement of involving our America, and with it the whole New World, in the systems and vortex of European politics. We begin with going to Africa to join Great Britain, Russia, Prussia, and Austria, (for France declines the favor,) in redressing the grievances of the Old World; after that, it is a natural step for these great powers to come over here to redress the wrongs of the New World. If this fatal policy is suffered to continue; if we go on to mix ourselves in the affairs of Europe; if we quit our own, to stand upon foreign ground; if we hitch our cock-boat to the grand navies of Europe, and tie on our little ministers behind the gorgeous representatives of mighty monarchs;—if we do this, then it is in vain that Providence isolated us, and that Washington warned us. We are doomed to foreign connections, and to foreign interference; and may expect to see the affairs of the two Americas, from Baffin's Bay to Cape Horn, regulated by the sovereign congresses of Vienna, St. Petersburg, and London; and the fleets and armies of Europe sent here to enforce their decrees.

Passing from the political consequences of this entanglement—consequences which no human foresight can reach—I come to the immediate and practical effects which lie within our view, and which display the enormous inexpediency of the measure. First: the expense in money—an item which would seem to be entitled to some regard in the present deplorable state of the treasury—in the present cry for retrenchment—and in the present heavy taxation upon the comforts and necessities of life. This expense for 80 guns will be about \$750,000 per annum, exclusive of repairs and loss of lives. I speak of the whole expense, as part of the naval establishment of the United States, and not of the mere expense of working the ships after they have gone to sea. Nine thousand dollars per gun is about the expense of the establishment; 80 guns would be \$720,000 per annum, which is \$3,600,000 for five years. But the squadron is not limited to a maximum of 80 guns; that is the minimum limit: it is to be 80 guns "at the least." And if the party which granted these 80 shall continue in power, Great Britain may find it as easy to double the number, as it was to obtain the first eighty. Nor is the time limited to five years; it is only determinable after that period by giving notice; a notice not to be expected from those who made the treaty. At the least, then, the moneyed expense is to be \$8,600,000; if the present party continues in power, it may double or treble that amount; and this, besides the cost of the ships. Such is the moneyed expense. In ships, the wear and tear of vessels must be great. We are to prepare, equip, and maintain in service, on a coast 4,000 miles from home, the adequate number of vessels to carry these 80 guns. It is not sufficient to send the number there; they must be kept up and maintained in service

there; and this will require constant expenses to repair injuries, supply losses, and cover casualties. In the employment of men, and the waste of life and health, the expenditure must be large. Ten men and two officers to the gun, is the smallest estimate that can be admitted. This would require a complement of 960 men. Including all the necessary equipage of the ship, and above 1,000 persons will be constantly required. These are to be employed at a vast distance from home; on a savage coast; in a perilous service; on both sides of the equator; and in a climate which is death to the white race. This waste of men—this wear and tear of life and constitution—should stand for something in a Christian land, and in this age of roaming philanthropy; unless, indeed, in excess of love for the blacks, it is deemed meritorious to destroy the whites. The field of operations for this squadron is great; the term "coast of Africa," having an immense application in the vocabulary of the slave-trade. On the western coast of Africa, according to the replies of the naval officers Bell and Paine, the trade is carried on from Senegal to Cape Frio—a distance of 3,600 miles, following its windings, as the watching squadrons would have to go. But the track of the slavers between Africa and America has to be watched, as well as the immediate coast; and this embraces a space in the ocean of 85 degrees on each side of the equator, (say four thousand miles,) and covering the American coast from Cuba to Rio Janeiro; so that the coast of Africa—the western coast alone—embraces a diagram of the ocean of near 4,000 miles every way, having the equator in the centre, and bounded east and west by the New and the Old World. This is for the western coast only: the eastern is nearly as large. The same naval officers say that a large trade in negroes is carried on in the Mahometan countries bordering on the Red Sea and the Persian Gulf, and in the Portuguese East India colonies; and, what is worthy to be told, it is also carried on in the British presidency of Bombay, and other British Asiatic possessions. It is true, the officers say the American slavers are not yet there; but go there they will, according to all the laws of trading and hunting, the moment they are disturbed, or the trade fails, on the western coast. Wherever the trade exists, the combined powers must follow it; for good is not to be done by halves, and philanthropy is not to be circumscribed by coasts and latitudes. Great is the field of enterprise which presents itself to the British-American squadrons; great, also, is the field of labor for their diplomatic remonstrants. Spain, Portugal, Brazil; Cuba, Porto Rico, and other American islands; the Mahometan, Portuguese, and British possessions in southern Asia;—all these will require the presence of the Anglo-American embassies. Great will be the expense of these embassies; for the ambassadors must not only be paid, but go loaded with costly presents when barbarians



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are to be treated with. And here the treating is to be double—with the savage negro chiefs who tolerate the sale, and with Christian or Mahometan kings who tolerate the purchase. Even if no unlucky consequence supervenes, the expense of these embassies must still be great; but if our ministers chance to be assassinated by the negro chief, or insulted by the Christian or Mahometan king—what then? Shall we resent the injury, at a good loss of men and money? or shall we count the cost, and pocket the outrage? What if the Emperor of Brazil, boy as he is; or the Queen of Spain, child as she is; or the Queen of Portugal, lady as she is, should give our minister advice to return home, and free his own country from slaves before he went about to close the markets of the world against them? True, there is a difference between purchasing, and the purchased. The intellect can detect the difference. But still it is a case for a sarcasm, and for an insult; and the American minister who should go upon these expeditions, should look out for answers very different from what may be given to the representative of Great Britain. She, having liberated her own slaves, may stand up and speak. But how will it be with the American minister, when he commences rehearsing his remonstrance? This business of remonstrating is a delicate operation between individuals; more so when a sovereign is in the case; and becomes exceedingly critical when the remonstrant is about in the condition himself which he attacks in others. Among all the strange features in the comedy of errors which has ended in this treaty, that of sending American ministers abroad, to close the markets of the world against the slave-trade, is the most striking. Not content with the expenses, loss of life, and political entanglements of this alliance, we must electioneer for insults, and send ministers abroad to receive, pocket, and bring them home.

In what circumstances do we undertake all this fine work? What is our condition at home, while thus going abroad in search of employment? We raise 1,000 men for foreign service, while reducing our little army at home! We send ships to the coast of Africa, while dismounting our dragoons on the frontiers of Missouri and Arkansas! We protect Africa from slave-dealers, and abandon Florida to savage butchery! We send cannon, shot, shells, powder, lead, bombs, and balls, to Africa, while denying arms and ammunition to the young men who go to Florida! We give food, clothes, pay, to the men who go to Africa, and deny rations even to those who go to Florida! We cry out for retrenchment, and scatter \$3,600,000 at one broad cast of the hand! We tax tea and coffee, and send the money to Africa! We are borrowing, and taxing, and striking paper money, and reducing expenses at home, when engaging in this new and vast expense for the defence of Africa! What madness and folly! Has Don Quixote come to life, and

placed himself at the head of our Government, and taken the negroes of Africa instead of the damsels of Spain, for the objects of his chivalrous protection?

One more view of this eighty-gun squadron, and I dismiss it from my speech.

I am no man to invoke our constitution on every petty occasion, and to eke out all arguments with a cry of violation of that sacred instrument. The Salaminian galley was only launched on great occasions. I am slow to cheapen our constitution by appealing to it in doubtful or frivolous circumstances. But it does seem to me that here there is room neither for doubt nor frivolity; and that the raising this squadron for the defence of Africa, and for the redress of moral evils in that remote region, is an act wholly without the pale of our constitution. To Congress alone it belongs to raise fleets—and that, for the defence of our own country: but here is a fleet to be raised, not by Congress, but by the President, the Senate, and the Queen of Great Britain; and this fleet for the defence, not of these confederated States, but of African tribes; and for the suppression, not of political, but of moral evils. It does seem to me that Congress itself could have no power to do this—still less the President, Senate, and Queen Victoria. To provide and maintain navies, is a power specially granted to Congress: it is a legislative power—and properly so; because, with us, the questions of war and peace, of fleets and armies, of loans and taxes, are all legislative powers, and peculiarly under the charge of the people's immediate representatives. It will not do to deceive ourselves by analogies to other governments. Ours is a government of limitations, and of separate departments. Each department must keep within its own sphere. It must not transcend its own limits—much less invade those of another. The treaty-making power is a distinct power, and its acts are the supreme law of the land. But it is not every thing which the President and Senate, and a foreign prince, or an Indian chief, may choose to insert in a treaty, that is this supreme law. Were it so, there would soon be no power in our country but that of the President and Senate, acting with some foreign kings, or with savage tribes. To gain this character of supreme law, or even of law at all, the subject-matter of the treaty must be within the competency of the treaty-making power: it must be a subject for treaty regulation, and not for legislative, judicial, or executive action. And this competency must be tried by our own constitution, and not by the constitutions or practices of European monarchs. What is fit matter for treaty regulation in one country, is not so in another; and in no country is the treaty-making power more limited and circumscribed than in our own. The mass of the powers of our Government are given to Congress; and whatever is given to Congress is taken away from all other powers. Now, apply these principles to the act in question. This



treaty stipulates to prepare, equip, and maintain a squadron—to keep it up for five years, and afterwards, until the President of the United States, or the British Government, gives notice for it to be withdrawn—to employ it, in conjunction with a British squadron, for the defence of Africans, and for suppressing the moral evil of slave-taking; the squadron to be of eighty guns at the least. Now, the preparing, equipping, and maintaining in service this squadron, is a legislative act, specifically given by the constitution to Congress. Thus far, it is an invasion of the legislative department. All the rest is sheer usurpation, such as Congress itself could not make legal. Congress itself cannot create a squadron for five years; for the same, or another Congress, may repeal the law. It cannot make the continuance of the squadron dependent upon the will of the President, or of a foreign prince; but it must depend upon the will of Congress itself. It cannot raise fleets for objects foreign to the objects of the Union—as the defence of Africa; or for redressing moral wrongs—as the suppression of the African custom of selling one another; but the fleet must be raised for the defence of the Union, or of the rights and interests of its citizens abroad. Thus, the treaty stipulation for this squadron is, in its first step, an invasion of the legislative authority, and is void: in every subsequent step, it is sheer usurpation, and such as Congress could not legalize if it would. I wish to be understood; and what I mean to say is, that Congress itself cannot legalize this treaty!—that Congress itself cannot raise this squadron for five years, for this foreign object!

The constitution names this subject, and gives to Congress a certain degree of power over it: it was to prohibit the importation of slaves after the year 1808. That power has been exercised; it has been exhausted; and it is fair to infer that it was all that was intended to be granted. In a government of limited powers, when a certain quantum is given, it is all that is to be taken. In this case, the authority to prohibit the importation of slaves after a given period, was an authority obtained by compromise, and after much hesitation and difficulty in the convention. It was a long time before even this much, on a subject so differently viewed in different sections of the Union, could be agreed upon. After this, is it to be supposed that a clause could have been obtained to clothe Congress—to clothe the representatives of the people themselves, much less the President, Senate, and a foreign prince—with power to raise fleets for terms of years, to put down the slave-trade in Africa itself? Certainly not! No one that reads the Madison Papers on this head can suppose, for an instant, that this power ever would have been granted. Then how is it obtained? By assuming the illimitability, as well as the supremacy of the treaty-making power! by assuming that that power is as large here as it is in Great Britain!

by assuming that it may absorb the legislative power—that it may transcend the legislative power—that it may do what Congress can do, and what Congress cannot—that it may employ arms for the suppression of moral evils, and send the ships and armies of the United States quixoting through the world to redress the wrongs of the human race. As part of the treaty-making power, I, for one, deny the constitutionality of this squadron engagement; and shall vote against the ratification of this treaty. As part of the legislative power, I again deny its constitutionality; and shall vote against the appropriations to carry it into effect. I shall have two chances at the unconstitutional, dangerous, and improvident scheme; and shall make the best use of both. I will fight the appropriations annually, through so many of the five years they are to continue as I shall have to remain here.

But it is not so much on this floor, as in the other end of the Capitol, that these appropriations should be fought. That duty belongs especially to the immediate Representatives of the people. If they give up to these eighty guns, and five years, and this redress of moral wrongs in Africa, they give up every thing. The President and Senate, with a king or a savage that can sign a writing and call it a treaty, may send as many ships as they please, to as many countries as they please, for as many years as they please, and for any object that suits the pleasure or interest of the moment.

I proceed to the third subject and last article in the treaty—the article which stipulates for the mutual surrender of fugitive criminals.

This is a subject long since considered in our country, and on which we have the benefit both of wise opinions and of some experience. Mr. Jefferson explored the whole subject when he was Secretary of State under President Washington, and came to the conclusion that these surrenders could only be made under three limitations: 1. Between coterminous countries. 2. For high offences. 3. A special provision against political offenders. Under these limitations, as far back as the year 1793, Mr. Jefferson proposed to Great Britain and Spain (the only countries with which we held coterminous dominions, and only for their adjacent provinces) a mutual delivery of fugitive criminals. His proposition was in these words:

“Any person having committed murder of malice prepense, not of the nature of treason, or forgery, within the United States or the Spanish provinces adjoining thereto, and fleeing from the justice of the country, shall be delivered up by the Government where he shall be found, to that from which he fled, whenever demanded by the same.”

This was the proposition of that great statesman: and how different from those which we find in this treaty! Instead of being confined to coterminous dominions, the jurisdiction of the country is taken for the theatre of the crime;

and that includes, on the part of Great Britain, possessions all over the world, and every ship on every sea that sails under her flag. Instead of being confined to two offences of high degree—murder and forgery—one against life, the other against property—this article extends to seven offences; some of which may be incurred for a shilling's worth of property, and another of them without touching or injuring a human being. Instead of a special provision in favor of political offenders, the insurgent or rebel may be given up for murder, and then hanged and quartered for treason; and in the long catalogue of seven offences, a charge may be made, and an *ex parte* case established, against any political offender which the British Government shall choose to pursue.

To palliate this article, and render it more acceptable to us, we are informed that it is copied from the 27th article of Mr. Jay's treaty. That apology for it, even if exactly true, would be but a poor recommendation of it to the people of the United States. Mr. Jay's treaty was no favorite with the American people, and especially with that part of the people which constituted the Republican party. Least of all was this 27th article a favorite with them. It was under that article that the famous Jonathan Robbins, alias Thomas Nash, was surrendered—a surrender which contributed largely to the defeat of Mr. Adams, and the overthrow of the Federal party in 1800. The apology would be poor, if true: but it happens to be not exactly true. The article in the Webster treaty differs widely from the one in Jay's treaty—and all for the worse. The imitation is far worse than the original—about as much worse as modern Whiggery is worse than ancient Federalism. Here are the two articles; let us compare them:

## MR. WEBSTER'S TREATY.

## Article 10.

"It is agreed that the United States and her Britannic Majesty shall, upon mutual requisitions by them, or their ministers, officers, or authorities, respectively made, deliver up to justice all persons who, being charged with the crime of murder, or assault with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the utterance of forged papers committed within the jurisdiction of either, shall seek an asylum, or shall be found, within the territories of the other: provided, that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the crime or offence had there been committed; and the respective judges and other magistrates shall have power, jurisdiction, and authority, upon complaint made under oath, to issue a warrant for the apprehension of the fugitive or person so charged, that he may be brought before such judges, or other magistrates, respectively, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge, or magistrate, to

certify the same to the proper executive authority, that a warrant may issue for the surrender of such fugitive. The expense of such apprehension and delivery shall be borne and defrayed by the party who makes the requisition, and receives the fugitive."

## MR. JAY'S TREATY.

## Article 27.

"It is further agreed that his Majesty and the United States, on mutual requisitions by them, respectively, or by their respective ministers, or officers, authorized to make the same, will deliver up to justice all persons who, being charged with murder, or forgery, committed within the jurisdiction of either, shall seek an asylum within any of the countries of the other: provided, that this shall only be done on such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the offence had there been committed. The expense of such apprehension and delivery shall be borne and defrayed by those who make the requisition, and receive the fugitive."

These are the two articles, and the difference between them is great and striking. First, the number of offences for which delivery of the offender is to be made, is much greater in the present treaty. Mr. Jay's article is limited to two offences—murder and forgery: the two proposed by Mr. Jefferson; but without his qualification to exclude political offences, and to confine the deliveries to offenders from coterminous dominions. The present treaty embraces these two, and five others; making seven in the whole. The five added offences are—assault, with intent to commit murder; piracy; robbery; arson; and the utterance of forged paper. These additional five offences, though high in name, might be very small in degree. Assault, with intent to murder, might be without touching or hurting any person; for, to lift a weapon at a person within striking distance, without striking, is an assault: to level a fire-arm at a person within carrying distance, and without firing, is an assault; and the offence being in the intent, is difficult of proof. Mr. Jefferson excluded it, and so did Mr. Jay's treaty; because the offence was too small and too equivocal to be made a matter of international arrangement. Piracy was excluded, because it was absurd to speak of a pirate's country. He has no country. He is *hostis humani generis*—the enemy of the human race; and is hung wherever he is caught. The robbery might be of a shilling's worth of bread; the arson, of burning a straw shed; the utterance of forged paper, might be the emission or passing of a counterfeit sixpence. All these were excluded from Jay's treaty, because of their possible insignificance, and the door they opened to abuse in harassing the innocent, and in multiplying the chances for getting hold of a political offender for some other offence, and then punishing him for his politics.

Striking as these differences are between the

present article and that of Mr. Jay's treaty; there is still more essential difference in another part; and a difference which nullifies the article in its only material bearing in our favor. It is this: Mr. Jay's treaty referred the delivery of the fugitive to the executive power. This treaty intervenes the Judiciary, and requires two decisions from a judge or magistrate before the Governor can act. This nullifies the treaty in all that relates to fugitive slaves guilty of crimes against their masters. In the eye of the British law, they have no master, and can commit no offence against such a person in asserting their liberty against him, even unto death. A slave may kill his master, if necessary to his escape. This is legal under British law; and, in the present state of abolition feeling throughout the British dominions, such killing would not only be considered fair, but in the highest degree meritorious and laudable. What chance for the recovery of such a slave under this treaty? Read it—the concluding part—after the word “committed,” and see what is the process to be gone through. Complaint is to be made to a British judge or justice. The fugitive is brought before this judge or justice, that the evidence of the criminality may be heard and considered—such evidence as would justify the apprehension, commitment, and trial of the party, if the offence had been committed there. If, upon this hearing, the evidence be deemed sufficient to sustain the charge, the judge or magistrate is to certify the fact to the executive authority; and then, and not until then, the surrender can be made. This is the process; and in all this the new treaty differs from Jay's. Under his treaty, the delivery was a ministerial act, referring itself to the authority of the Governor: under this treaty, it becomes a judicial act, referring itself to the discretion of the judge, who must twice decide against the slave (first, in issuing the warrant; and next, in trying it) before the Governor can order the surrender. Twice judicial discretion interposes a barrier, which cannot be forced; and behind which the slave, who has robbed or killed his master, may repose in safety. What evidence of criminality will satisfy the judge, when the act itself is no crime in his eyes, or under his laws, and when all his sympathies are on the side of the slave? What chance would there be for the judicial surrender of offending slaves in the British dominions, under this treaty, when the provisions of our own constitution, within the States of our own Union in relation to fugitive slaves, cannot be executed? We all know that a judicial trial is immunity to a slave pursued by his owner, in many of our own States. Can such trials be expected to result better for the owner in the British dominion, where the relation of master and slave is not admitted, and where abolitionism is the policy of the Government, the voice of the law, and the spirit of the people? Killing his master in defence of his liberty is no offence in the eye of British law

or British people; and no slave will ever be given up for it.

[Mr. WRIGHT here said, that counterfeiting American securities, or bank notes, was no offence in Canada; and the same question might arise there in relation to forgers.]

Mr. BENSON resumed. Better far to leave things as they are. Forgers are now given up in Canada, by Executive authority, when they fly to that province. This is done in the spirit of good neighborhood; and because all honest Governments have an interest in suppressing crimes, and repelling criminals. The Governor acts from a sense of propriety, and the dictates of decency and justice. Not so with the judge. He must go by the law; and when there is no law against the offence, he has nothing to justify him in delivering the offender.

Conventions for the mutual surrender of large offenders, where dominions are coterminous, might be proper. Limited, as proposed by Mr. Jefferson in 1793, and they might be beneficial in suppression of border crimes and the preservation of order and justice. But extended as this is to a long list of offenders—unrestricted as it is in the case of murder—applying to dominions in all parts of the world, and to ships in every sea,—it can be nothing but the source of individual annoyance and national recrimination. Besides, if we surrender to Great Britain, why not to Russia, Prussia, Austria, France, and all the countries of the world? If we give up the Irishman to England, why not the Pole to Russia, the Italian to Austria, the German to his prince; and so on throughout the catalogue of nations? Sir, the article is a pestiferous one; and as it is determinable upon notice, it will become the duty of the American people to elect a President who will give the notice, and so put an end to its existence.

Addressing itself to the natural feelings of the country, against high crimes and border offenders, and in favor of political liberty, the Message of the President communicating and recommending this treaty to us, carefully presents this article as conforming to our feelings in all these particulars. It is represented as applicable only to high crimes—to border offenders; and to offences not political. In all this, the Message is disingenuous and deceptive, and calculated to ravish from the ignorant and the thoughtless an applause to which the treaty is not entitled. It says:

“The surrender to justice of persons who, having committed high crimes, seek an asylum in the territories of a neighboring nation, would seem to be an act due to the cause of general justice, and properly belonging to the present state of civilization and intercourse. The British provinces of North America are separated from the States of the Union by a line of several thousand miles; and, along portions of this line, the amount of population on either side is quite considerable, while the passage of the boundary is always easy.

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"Offenders against the law on the one side transfer themselves to the other. Sometimes, with great difficulty, they are brought to justice; but very often they wholly escape. A consciousness of immunity, from the power of avoiding justice in this way, instigates the unprincipled and reckless to the commission of offences; and the peace and good neighborhood of the border are consequently often disturbed.

"In the case of offenders fleeing from Canada into the United States, the Governors of States are often applied to for their surrender; and questions of a very embarrassing nature arise from these applications. It has been thought highly important, therefore, to provide for the whole case by a proper treaty stipulation. The article on the subject, in the proposed treaty, is carefully confined to such offences as all mankind agree to regard as heinous and destructive of the security of life and of property. In this careful and specific enumeration of crimes, the object has been to exclude all political offences, or criminal charges arising from wars or intestine commotions. Treason, misprision of treason, libels, desertion from military service, and other offences of a similar character, are excluded."

In these phrases the Message recommends the article to the Senate and the country; and yet nothing could be more fallacious and deceptive than such a recommendation. It confines the surrender to border offenders—Canadian fugitives; yet the treaty extends it to all persons committing offences under the "*jurisdiction*" of Great Britain—a term which includes all her territory throughout the world, and every ship or fort over which her flag waves. The Message confines the surrender to high crimes: yet we have seen that the treaty includes crimes which may be of low degree—low indeed! A hare or a partridge from a preserve; a loaf of bread to sustain life; a sixpenny counterfeit note passed; a shed burnt; a weapon lifted, without striking! The Message says all political crimes, all treasons, misprision of treason, libels, and desertions are excluded. The treaty shows that these offences are not excluded—that the limitations proposed by Mr. Jefferson are not inserted; and, consequently, under the head of murder, the insurgent, the rebel, and the traitor, who has shed blood, may be given up; and so of other offences. When once surrendered, he may be tried for any thing. The fate of Jonathan Robbins, alias Nash, is a good illustration of all this.\* He was a British sailor—was guilty of

\* "He (President Adams) considers an offence committed on board a public ship of war on the high seas, to have been committed within the jurisdiction of the nation to which the ship belongs. Nash is charged, it is understood, with piracy and murder on board the British frigate *Hermione*, on the high seas, and, consequently, within the jurisdiction of his Britannic Majesty; and, therefore, by the 37th article of the treaty of amity with Great Britain, Nash ought to be delivered up as requested by the British minister, provided such evidence of his criminality be produced as, by the laws of the United States, or of South Carolina, (where the fugitive was,) would justify his apprehension and commitment for trial, if the offence had been committed within the United States."—(*Mr. Pickens's letter to the British Minister, Mr. Liston, surrendering Robbins, alias Nash, by order of President Adams.*)

mutiny, murder, and piracy, on the frigate *Hermione*—deserted to the United States—was demanded by the British minister as a murderer under Jay's treaty—given up as a murderer—then tried by a court-martial on board a man-of-war for mutiny, murder, desertion, and piracy—found guilty—executed—and his body hung in chains from the yard-arm of a man-of-war. And so it would be again. The man given up for one offence, would be tried for another; and in the number and insignificance of the offences for which he might be surrendered, there would be no difficulty in reaching any victim that a foreign Government chose to pursue. If this article had been in force in the time of the Irish rebellion, and Lord Edward Fitzgerald had escaped to the United States, after wounding, as he did, several of the myrmidons who arrested him, he might have been demanded as a fugitive from justice, for the assault with intent to kill; and then tried for treason, and hanged and quartered; and such will be the operation of the article if it continues.

The article is improper in itself; unequal in its operation; intended to give the British the right of demanding all fugitives, or emigrants from all parts of her dominions, and all her ships; intended to authorize their arrest for desertion for political offences, under the guise of reclaiming them for crimes; worth nothing to us on the two main points of fugitive slaves and forgers; and actually putting us in a worse condition than we were in without this agreement. Lord Ashburton says it cannot take effect in England without an act of Parliament to sanction it. I have not examined the question; but would suppose that if an act of Parliament were necessary in England to give it validity, an act of Congress would be equally necessary here for the same purpose. In that event, the Representatives of the people may yet save an immense emigrant population from the persecutions and annoyance to which political offenders as well as criminals, and the innocent as well as the guilty, may be subjected under this renewed and aggravated edition of one of the worst parts of Jay's treaty.

I have done with the consideration of this article; and with it, I have done with my detailed and special objections to the contents of the treaty. Other general objections I have to it, and so stated at the opening of my speech. Besides the leading general objection, that this treaty was not a settlement of *all* matters in dispute; that it settled what concerned Great Britain and the Northern States; and was, in fact, a virtual separate treaty with those States;—besides this objection, which I have stated at large, there were other general objections which I have barely named, and will now proceed to state more fully.

1. The employment of a sole negotiator in a business of such magnitude and variety, and one who had not been approved by the Senate for this purpose. The negotiations embraced

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the most important concerns, and the most various—some peculiar to sectional divisions of the Union, as the boundary, to the North; the liberation and enticement of slaves, to the South; the Columbia River, to the West; and then to the Union in general, in the important questions of impressment, of search, and of the insult at Schlosser. Such varied and important interests required several commissioners on the part of the United States; and they specially approved by the Senate for this purpose. Never, in the annals of our history, was such a negotiation before committed to a single hand. In all previous administrations, Federal or Republican, where great questions were at stake, several ministers were appointed, and they taken from different parts of the Union, and from both political parties. Witness the three ministers in France (Marshall, Pinckney, and Gerry) in Mr. J. Adams's time; the two ministers to England (Mr. Rufus King and Mr. Monroe) in Mr. Jefferson's time; the five ministers to Ghent (Messrs. J. Q. Adams, Bayard, Clay, Russell, and Gallatin) in Mr. Madison's time; and numerous other instances, within the recollection of all. The present occasion was as important as any of these; for, besides embracing so many, and such various questions, it also involved, as we are constantly told, the great question of peace or war! If the British Government chose to confide its interests to a single negotiator, that was no rule for us. It is a monarchy; and concentration is its principle. We are a confederacy of Republics; and diffusion is our tendency. The monarchy and the monarchical Government is alone to be consulted in Great Britain. The State Governments, the political parties, the sectional divisions, are all to be considered here; and certainly there never was a time when an Administration was more bound to defer to the States, to the sections, and the parties. Having no State, no section, and no party to support it, it was little able to disregard the claims of justice, and the observances of propriety towards any. It is to no purpose to say, it is no matter: the Senate has the control; it can reject. This is idle. We know that treaties are confirmed, that not a single Senator would recommend; that various influences are brought to bear upon the ratification of a treaty; and that ratification is no test of its merits. No. The security is in precaution—in preventive remedies—in taking care to secure a safe treaty beforehand; and not in the rejection by the Senate afterwards. In this case, the employment of a single negotiator was unjustifiable. The occasion was great, and required several, both for safety and for satisfaction. The negotiation was here. Our country is full of able men. Two other negotiators might have been joined without delay, without trouble, and almost without expense. The British also had another negotiator here, (Mr. Fox;) a minister of whom I can say, without disparagement to any other, that, in the two and

twenty years which I have sat in this Senate, and had occasion to know the foreign ministers, I have never known his superior for intelligence, dignity, attention to his business, fidelity to his own Government, and decorum to ours. Why not add Mr. Fox to Lord Ashburton, unless to prevent an associate being given to Mr. Webster? Was it arranged in London that the whole negotiation should be between two, and that these two should act without a witness, and without notes or minutes of their conferences? Be this as it may, the effect is the same; and all must condemn this solitary business between two ministers, when the occasion so imperiously demanded several.

2. The assumption of the Secretary negotiator to treat the boundaries of the republic, established by the war of the Revolution, as matter of bargain and sale—of gifts and equivalents—in the hands of the negotiators. This was done, and in the whole extent of the boundary. In his very first letter to Lord Ashburton—in his brief note of the 17th of June, acknowledging the receipt of his Lordship's very first note, and in announcing his own authority to treat—our negotiator throws up the whole question of *rights* under the treaty of '83, declares for a conventional line, and invites a negotiation upon the basis of grants and equivalents—the very thing which he had condemned in the award. This is what he says in his note—hear him:

"Lord Ashburton having been charged by the Queen's Government with full powers to negotiate and settle all matters in discussion between the United States and England; and having, on his arrival at Washington, announced that, in relation to the question of the North-eastern boundary of the United States, he was authorized to treat for a conventional line, or line by agreement, on such terms and conditions, and with such mutual considerations and equivalents, as might be thought just and equitable; and that he was ready to enter upon a negotiation for such conventional line, so soon as this Government should say that it was authorized and ready on its part to commence such negotiation,—the undersigned, Secretary of State of the United States, has now the honor to acquaint his Lordship, by direction of the President, that the undersigned is ready, on behalf of the Government of the United States, and duly authorized to proceed to the consideration of such conventional line, or line by agreement; and will be happy to have an interview on that subject, at his Lordship's convenience."

[*Mr. Webster to Lord Ashburton, June 17.*]

To this most obliging proposition—which gave up the whole question!—the British minister very naturally and very promptly (*i. e.*, on the same day) returned a note of acceptance, fully accepting what the Secretary offered. The note is in these terms:

"The undersigned, plenipotentiary of her Britannic Majesty in an extraordinary and special mission to the United States of America, has the honor of acknowledging, with much satisfaction, the communication received this day from Mr.

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Webster, Secretary of State of the United States, that he is ready, on behalf of the United States, and duly authorized, in relation to the question of the North-eastern boundary of the United States, to proceed to the consideration of a conventional line, or line by agreement, on such terms and conditions, and with such mutual considerations and equivalents, as might be thought just and equitable. And in reply to Mr. Webster's invitation to the undersigned to fix some time for their first conference upon this subject, he begs to propose to call on Mr. Webster, at the Department of State, to-morrow, at 12 o'clock, for this purpose, should that time be perfectly convenient to Mr. Webster."

[*Lord Ashburton to Mr. Webster, June 17.*]

Here is acceptance, quick and cordial, with a time and place named for the first conference. The Secretary agrees to the time and place mentioned; and immediately (to wit: on the same aforesaid 17th day of June) writes back to the British minister as follows:

"The Secretary of State will have great pleasure in seeing Lord Ashburton at twelve o'clock to-morrow, as proposed by him."

This was rapid work, and long will this day—THIS FRIDAY, JUNE 17, 1842—be remembered and noted in the annals of this confederacy. In the Roman calendar, it would have had a place among their unlucky days. Its memory would have been perpetuated by a black monument; and most appropriate it will be for us to mark all the new boundaries of Maine with black stones, and veil with black the statue of the god *Terminus*, degraded from the mountain which overlooked Quebec, to the humble valley which grows potatoes.

Let us mark this black Friday. On that day a question of national boundary was settled!—and settled by giving it up! and given up before the first conference! A conventional boundary was agreed to, in violation of the Senate's decision in the case of the awarded line, and in contradiction to the negotiator's recorded principles on that occasion. The King of the Netherlands awarded a conventional line: it was rejected, because it was conventional; and now two conventional lines—the same, and another far worse—are agreed upon; and agreed upon before the first conference, and by the negotiator who was potential in preventing President Jackson from accepting the first. The new boundaries thus agreed upon must be, and ought to be, repugnant and humiliating to the American feeling. But humiliation and repugnance are not all; danger and mischief follow in the rear. Five hundred miles of first-rate smuggling ground is added to the 1,500 miles of northern smuggling boundary which we already possessed. Passamaquoddy Bay is converted into a great naval station, for the scourge of our coast in time to come by British steamers. Halifax and Quebec are united, and a new military frontier created, in which Great Britain exults and Maine mourns.

3. The omission to keep protocols; and the

mystery and doubt which hang over the origin and progress of the different propositions, and the degrees by which they ripened into their ultimate form. This neglect, or omission, as we have already seen, was total and invariable. It pervaded every part of the negotiation; and the correspondence which has been communicated to us—incomplete as it is, in leaving wholly unmentioned several subjects of the negotiation—has all the air of an after performance—the air of an arranged correspondence to justify foregone conclusions. All the main work seems to have been done *tête-à-tête*, without a witness to hear it, or pen to note it. Never, since diplomacy began, and the art of writing was invented, was a negotiation of such moment, or of any moment, so tracklessly conducted! At the same time, the occasion was one which required ample minutes to be taken, a faithful record to be kept, and explanations of every thing to be given. Sole negotiator—immense interests—various questions—half of them pretermitted, the others sacrificed. Surely such things required protocols—many protocols; yet we have not one; and the justificatory Message drawn up for the President, and signed by him without a verification of facts, is replete with unfounded suggestions and insidious recommendations, only calculated to impose on the ignorant. I present this omission to keep minutes of the conferences as a fatal objection to the treaty, and a departure from propriety not to be tolerated. We have a right to see the progress of a negotiation, and this is the first instance in which that right has been violated.

4. The assumption of the American negotiator to act for the British negotiator, in presenting the British proposition for the Maine boundary as the American proposition; and the unjustifiable and unfounded arguments with which he pressed that proposition upon the Maine commissioners, until he extorted from them a reluctant, painful, conditional acquiescence, which was immediately treated as an absolute consent. This is a most serious objection, and requires to be proved as soon as stated. So, here is the proof:

"GENTLEMEN: You have had an opportunity of reading Lord Ashburton's note to me of the 11th July. Since that date, I have had full and frequent conferences with him respecting the Eastern boundary, and believe I understand what is practicable to be done on that subject, so far as he is concerned. In these conferences, he has made no positive or binding proposition; though, perhaps, it would be more desirable, under present circumstances, that such proposition should proceed from the United States. I have reason to believe, however, that he would agree to a line of boundary between the United States and the British provinces of Canada and New Brunswick, such as is described in a paper accompanying this, (marked B.,) and identified by my signature.

"The line suggested, with the compensations and equivalents which have been stated, is now submitted for your consideration. That it is all which

might have been hoped for, looking to the strength of the American claim, can hardly be said. But, as the settlement of a controversy of such duration is a matter of high importance; as equivalents of undoubted value are offered; as longer postponement and delay would lead to further inconvenience, and to the incurring of further expenses; and as no better occasion, or perhaps any other occasion, for settling the boundary by agreement, and on the principles of equivalents, is ever likely to present itself, the Government of the United States hopes that the commissioners of the two States will find it to be consistent with their duty to assent to the line proposed, and to the terms and conditions attending the proposition.

"The President has felt the deepest anxiety for an amicable settlement of the question in a manner honorable to the country, and such as should preserve the rights and interests of the States concerned. From the moment of the announcement of Lord Ashburton's mission, he has sedulously endeavored to pursue a course the most respectful towards the States, and the most useful to their interests, as well as the most becoming to the character and dignity of the Government. He will be happy if the result shall be such as shall satisfy Maine and Massachusetts, as well as the rest of the country. With these sentiments on the part of the President, and with the conviction that no more advantageous arrangement can be made, this subject is now referred to the grave deliberation of the commissioners."—*Mr. Webster to the Maine commissioners, July 15.*

This extract shows, in express terms, that the American Secretary of State presented the British proposition for the Maine boundary; that he not only presents it, but brings both the British and American Governments to bear upon Maine, to coerce her submission. The paper marked B, identified by the Secretary's signature, is evidently from the British legation; and is the precise writing, word for word, which now constitutes the first article of the treaty. The American Government is made to express its desire for the acceptance of the boundary designated in that paper; and then a train of the most extraordinary argument is addressed to Maine, in which the Secretary evidently speaks for Great Britain. First, he speaks of the equivalents which Maine is to receive, and declares them to be of undoubted value. What are they? The half of \$800,000 for the two conventional lines and the two territorial losses! when President Jackson had proposed a million and a quarter of dollars (one million of acres of good land in Michigan) as a compensation to Maine for one of these lines and one of these losses only; and that offer had been spurned by the present negotiator. He now adds 110 miles of new boundary, and 572,000 acres of new territorial loss; reduces the equivalent from \$1,250,000 to \$150,000, and then presses it upon Maine as an equivalent of undoubted value. And this is all she gets; for the navigation of the St. John, due to Maine under the laws of nations, is balanced by navigation conferred, as well as received. The Secretary then goes on to threaten Maine with

war, if she does not submit to his British proposition. He warns her that no better occasion—no other occasion—for settling the boundary by agreement, and for equivalents, is ever likely to happen; he tells her that no arrangement more advantageous can be made; and then submits the proposition, as a unit, without alteration or amendment, to the grave deliberation of the commissioners. Now, my first objection to all this, is a threat of war to coerce Maine; for what else can be understood from this last chance for settling by agreement, and for equivalents, and that no better arrangement can be had? What is this but saying to Maine, that if you do not accept this settlement of the boundary, it will be settled without agreement, and without equivalents, and in a more disadvantageous manner?—that is to say, it will be settled by war, and you will be flogged into submission. This is the plain import of the Secretary's language; and here we have the root and origin of that Walpole cry of war—that craven cry—which has been made to resound through the land. The same threat which was made to Maine, is made to us; and, like her commissioners, we are desired to take the proposition into our grave deliberation. The next objection I have to this threat is, that it is false; for we all know that Great Britain not only agreed to better terms than these for us, but demanded them; and made it matter of remonstrance that we refused them. I speak of the King of the Netherlands' award. That award was infinitely better for us; and it was not only accepted by the British, but insisted upon; and its non-execution on our part was made a subject of remonstrance and complaint against us. After this, can any one believe that the "peace-mission" was sent out to make war upon us if we did not yield up near double as much as she then demanded? No, sir! there is no truth in this cry of war. It is only a phantom conjured up for the occasion. From Jackson and Van Buren the British would gladly have accepted the awarded boundary: the Federalists prevented it, and even refused a new negotiation. Now, the same Federalists have yielded double as much, and are thanking God that the British condescend to accept it. Such is Federalism: and the British well knew their time, and their men, when they selected the present moment to send their special mission; to double their demands, and to use arguments successfully, which would have been indignantly repelled when a Jackson or a Van Buren was at the head of the Government—or, rather, would never have been used to such Presidents. The conduct of our Secretary-negotiator is inexplicable. He rejects the award, because it dismembers Maine; votes against new negotiations with England; and announces himself ready to shoulder a musket and march to the highland boundary, and there fight his death for it. This was under Jackson's administration. He now becomes negotiator himself; gives up the highland boundary in the first

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note; gives up all that was awarded by the King of the Netherlands; gives up 110 miles on this side of that award; gives up the mountain barrier which covered Maine, and commanded the Halifax road to Quebec; gives \$500,000 for Rouse's Point, which the King of the Netherlands gave us for nothing; becomes the agent of the British minister in presenting the new boundary to the Maine commissioners; and crowns all this inexplicable conduct by keeping no record of his proceedings, and using threats and menaces which no English gentleman would have used, and which were as false in fact as they were insolent in spirit. I say this conduct is inexplicable! I shall publish what I say, and defy the Secretary and his friends to explain his conduct.

This is sufficient to prove my assertion that the American negotiator became the champion of the British Government; that he offered the British proposition as the American proposition; that he brought both Governments to bear upon Maine, in order to force her to accept it; and that he used arguments to accomplish his purpose, which were unjustifiable and untrue. The proof in his own letter is sufficient; but the answer of the Maine commissioners seals it; and here is that answer:

"The undersigned, commissioners of the State of Maine on the subject of the North-eastern boundary, have the honor to acknowledge the receipt of your note, addressed to them under date of the 15th instant, with enclosures therein referred to. The proposition first submitted by the special minister of Great Britain, on the subject of the boundary, having been disagreed to; and the proposition made on the part of the United States, with the assent of the commissioners of Maine and Massachusetts, having been rejected as inadmissible, coupled with an expression of surprise that it should have been made; and Lord Ashburton, in the same communication, having intimated a preference for conference rather than correspondence, and having omitted in his note to make any new proposition, except a qualified withdrawal of a part of his former one; we learn from your note that you 'have had full and frequent conferences with him respecting the north-eastern boundary,' and that you 'believe you understand what is practicable to be done on that subject, so far as he (Lord Ashburton) is concerned.' We also learn that 'in these conferences he has made no positive or binding proposition; thinking, perhaps, it would be more desirable, under present circumstances, that such a proposition should proceed from the side of the United States;' but that you have reason to believe that he would agree to a line of boundary such as is described in the paper accompanying your note, (marked B.,) and, also, that you entertain the conviction 'that no more advantageous arrangement can be made;' and, with this conviction, you refer the subject to the grave deliberation of the commissioners.

"Regarding this as substantially a proposition on the part of the United States, with the knowledge and assent of Great Britain, and as the one most favorable to us which, under any circumstances, the latter Government would either offer or accept,

the undersigned have not failed to bestow upon it the grave deliberation and consideration which its nature and importance, and their ever responsible position, demand.

"We are now given to understand that the Executive of the United States, representing the sovereignty of the Union, *assents* to the proposal, and that this department of the Government at least is *anxious* for its acceptance, as, in its view, most expedient for the general good.

"The commissioners of *Massachusetts* have already given their assent, on behalf of that Commonwealth.

"Considering, then, this proposition as involving the surrender of more territory than the avowed objects of England require; as removing our landmarks from the well-known and well-defined boundary of the treaty of 1783, on the crest of the highlands, besides insisting upon the line of the arbitrer in its full extent, we feel bound to say, after the most careful consideration, that we cannot bring our minds to the conviction that the proposal is such as Maine had a right to expect.

"We are now called upon to consider the final proposition, made *by or through* the Government of the United States, for our consideration and acceptance. The line indicated may be shortly defined as the line recommended by the King of the Netherlands, and an addition thereto of a strip of land at the base of the highlands running to the source of the south-west branch of the St. John. The examination and consideration of all other lines, which might better meet our views and objects, have been *precluded* by the declaration, and other plenary evidence we have, that the line specified in your communication is the most advantageous that can be offered to us; and that no one of less extent—or yielding, in fact, less to the other party—can be deemed admissible. We are, therefore, brought to the single and simple consideration of the question whether we can, consistently with our views of our duty to the State we represent, accept the proposition submitted by you."—*The Maine commissioners to Mr Webster, July 22.*

5. The mixing up of incongruous matter in the treaty, and presenting the whole as a unit, to be ratified *in toto* under penalty of the loss of the whole, and war if any part of it was rejected. This is a serious objection to the treaty. Incongruities are not to be put into laws, whether they be the supreme or the subordinate law. The African alliance for five years, is an incongruity in a British treaty of permanent boundaries. The only reason for putting this temporary convention into a permanent treaty, is the very reason which should prevent its being put there; it is to fetter the Senate—to embarrass and coerce them—to make one part of the treaty carry another. I shall move to strike out this alliance article, as well for incongruity, as for its unconstitutionality, inexpediency, and gross impolicy.

6. The irregular manner in which the ratification of this treaty has been sought, by consultations with individual members, before it was submitted to the Senate. Here I tread



upon delicate ground; and if I am wrong, this is the time and the place to correct me. I speak in the hearing of those who must know whether I am mistaken. I have reason to believe that the treaty has been privately submitted to Senators—their opinions obtained—the judgment of the body forestalled; and then sent here for the forms of ratification. [One Senator said he had not been consulted.] Mr. B. in continuation: Certainly not, as the Senator says so; and so of any other gentleman who will say the same. I interrogate no one. I have no right to interrogate any one. I do not pretend to say that all were consulted; that would have been unnecessary; and besides I know I was not consulted myself; and I know many others who were not. All that I intend to say is, that I have reason to think that this treaty has been ratified out of doors! and that this is a great irregularity, and bespeaks an undue solicitude for it on the part of its authors, arising from a consciousness of its indefensible character.

7. The want of instructions from the President to guide this negotiation. This is a glaring objection to the treaty. By the theory of our Government, the President is the head of the Executive Department, and must treat, through his agents and ministers, with foreign powers. He must tell them what to do, and should tell that in unequivocal language, that there may be no mistake about it. He must command and direct the negotiation; he must order what is done. This is the theory of our Government, and this has been its practice from the beginning of Washington's to the end of Mr. Van Buren's administration; and never was it more necessary than now. Being but one negotiator, and he not approved by the Senate for that purpose, and being from an interested State, it was the bounden duty of the President to have guided and directed every thing. He is the head of the Union, and should have attended to the interest of the whole Union; on the contrary, he abandons every thing to his Secretary, and this Secretary takes care of one section of the Union, and of his own State, and of Great Britain; and leaves the other two sections of the Union out of the treaty. The Northern States, coterminous with Canada, get their boundaries adjusted; Massachusetts gets money, which her sister States are to pay; and Great Britain takes two slices and all her military frontiers from the State of Maine! the S. and W. States are left as they were!—the natural result of a negotiation committed, without instructions, to a single negotiator; and that negotiator the man who declared he would not vote the money for defence which President Jackson required, even if the enemy was battering at the doors of the Capitol! and whose subservience to British interests, has so often and so deplorably been manifested.

8. The fear of war. This Walpole argument is heavily pressed upon us, and we are constantly told that the alternatives lie between

this treaty—the whole of it, just as it is—or war. This is a degrading argument, if true; and infamous if false! and false it is: and more than that, it is as shameless as it is unfounded! What! the *peace* mission come to make war! It is no such thing. It comes to take advantage of our deplorable condition—to take what it pleases, and to repulse the rest. Great Britain is in no condition to go to war with us, and every child knows it. But I do not limit myself to argument, and general considerations, to disprove this war argument. I refer to the fact which stamps it with untruth. Look to the notes of Sir Charles Vaughan and Mr. Bankhead, demanding the execution of the award, and declaring that *its execution would remove every impediment to the harmony of the two countries*. After that, and while holding these authentic declarations in our hands, are we to be told that the peace mission requires more than the award? requires one hundred and ten miles more of boundary? requires \$500,000 for Rouse's Point, which the award gave us without money? requires a naval and diplomatic alliance, which she dared not mention in the time of Jackson or Van Buren? requires the surrender of "*rebels*" under the name of criminals? and puts the South and West at defiance, while conciliating the non-slaveholding States? and gives us war, if we do not consent to all this degradation, insult, and outrage? Are we to be told this? No, sir; no! There is no danger of war; but this treaty will make a war, if it is ratified. It gives up all our advantages; leaves us with great questions unsettled; increases the audacity of the British; weakens and degrades us; and leaves us no alternative but war to save the Columbia, to prevent impressment, to resist search, to repel Schlosser invasions, and to avoid a San Domingo insurrection in the South, excited from London, from Canada, and from Nassau.

9. I conclude this head of general objections with the notice of an exhibition on this floor, preceded by private and impressive revelations to Senators without, which the honor of the contrivers would require to be kept where they attempted to place it—in the depths of everlasting oblivion; but which the honor of the Senate requires to be exposed to broad daylight. The Secretary of State has sent us, under the most awful injunctions of secrecy, certain letters from Mr. Jared Sparks, in Paris, covering a certain disinterred map, marked with certain red lines, said to be drawn by Dr. Franklin when minister in France, and by which the highlands which divide the Penobscot waters from the St. John are shown to be the boundary between the United States and Great Britain, instead of the highlands which divide the waters of the St. Lawrence from those of the Atlantic Ocean. The chairman of the Committee on Foreign Relations, by his position, was made the interpreter of the Secretary on this occasion. He unfolded the whole to us, with all the invocations to secrecy and to

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despatch in our work, which the Secretary had impetrated of him; and, as a reason for this despatch and secrecy, he read us a paragraph in Lord Ashburton's letter of the 11th of July, from which it was to be dreaded that his Lordship and the British, if not forestalled by a prompt ratification of the treaty, might find out our secret, refuse the ratification themselves, and seize on all Maine down to the Penobscot. At the moment that the chairman of the Committee on Foreign Relations was making these revelations and adjurations, struck by the strangeness of the scene, I demanded of him whether these communications came from the President? He answered, No; from the Secretary of State. I then declared that they were not covered by the rules of confidential intercourse between the President and Senate, and not entitled to secrecy; and the less so, because they had already been shown to many Senators out of doors. And, in the same instant, I treated the whole communication as a most unworthy contrivance—a fraud upon the British, if it was true; with a request to the Senate to become party to the fraud: an insult to the Senate if they were false; and the more so, if they had already been shown to Lord Ashburton, as they seemed to have been: and, in any event, a disgrace to its contrivers. At the same instant, I showed the bundle of old maps, collected and preserved by Mr. Jefferson, and belonging to the Congress Library, in which this very line was laid down in the same red color, while the true one was marked with dots, in a French map made in Paris, and dedicated and presented to Dr. Franklin in the year 1784. All this I did upon the instant—in the flash of the moment—with the hot feeling of indignation upon me—and without intending offence to the Senator from Virginia, the chairman of the Committee of Foreign Relations, whose position had made him the organ of the Secretary on this humiliating occasion.

I do not go into the full defence of Dr. Franklin, whose very ghost seems to have been made to play a part to ravish from our astounded senses the instant ratification of this treaty. I do not undertake to defend him from the resulting implications of these strange communications; and, to show that his geography could not have mistaken the highlands between the Penobscot and the St. John, for the highlands between the St. Lawrence and the Atlantic—his astronomy could not have mistaken the south side of Nova Scotia for the north-west corner of that province—and that his geometry could not have substituted a crooked line, running zig-zag west from the head of the St. Croix, for a straight line running from the head of that river due north to the intersection of the ridge between the Atlantic and the St. Lawrence. I do not go into this defence, nor expose the attempt to stultify Dr. Franklin, in order to screen our present negotiator from responsibility for his enormous sacrifices. That task has been assumed by the natural defender

of Dr. Franklin on this floor—the Senator from Mississippi, who has married his descendant, (Mr. WALKER,)—and who will do justice to the illustrious dead. I limit myself to showing a couple of maps—one of which shows the same line attributed to Dr. Franklin, in red coloring, and the true one in dots; the other shows the true boundary of the United States, marked by Mr. Jefferson. And, first, I will explain how I came to the knowledge of these maps, and chanced to have them on my table at such an appropriate moment.

The way of it is this: I made it my business to go and see Mr. Jefferson before he died; and in the course of a long winter evening, in which I contrived to make him do all the talking, he said to me many things which I have endeavored to remember, and to act upon as occasion presented. Among other things, he told me that when he was minister in Paris he had endeavored to make himself master of every thing that related to the New World, and especially to our own part of it; and for that purpose was accustomed to spend his leisure evenings in the booksellers' shops, searching out for every publication that related to the United States and the two Americas. He told me of many rare books, and in various languages, which he had collected, and of a mass of maps and charts which he had bound up; and that all his collection had gone to the United States with the sale of his library, and were in the library of Congress. I have often availed myself of this information to trace questions—historical, political, geographical—through his ample volumes; and had often looked over his collection of maps, venerable for their age and for the hand that collected them. This morning, when we locked our doors on this treaty, I sent a note to our Librarian, with a request to send me the Jefferson maps; and was actually looking over the collection at the time, and tracing the well-marked Northern boundary upon it, at the instant that the chairman of the Committee of Foreign Relations was revealing to us the unexpected discoveries of Mr. Jared Sparks. It struck me as very strange that Mr. Sparks should have discovered in Paris, in 1842, documents of such antiquity and of such moment in relation to our own country, and as coming from Dr. Franklin, when Mr. Jefferson, who was contemporary with the paper, the successor of Dr. Franklin, for so many years in Paris, and gave up so much of his time and thoughts to these researches; it struck me as very strange that all this should happen; and I immediately began to turn over the leaves of the map in my hand, to see if it was in his collection. Immediately I fell upon the same red line in a map made in Paris, in 1784, and dedicated and presented to Dr. Franklin, which map I instantly showed to the Senate, and had placed on the Secretary's table for the inspection of all the Senators. Its title is in these words:

*"Carte des États Unis de l'Amérique, suivant*

*le traité de paix de 1788. Dédiée et présentée à Son Excellence Mr. BENJAMIN FRANKLIN, ministre des Etats Unis de l'Amérique près la cour de France; ancien Président de la Convention de Pensilvanie, et de la Société Philosophique de Philadelphie, &c., &c. Par son très humble et très obéissant serviteur, LATPÈRE, 1784; avec privilège du Roi.—Paris."*

Here is the map which presents the same line, and in the same color with the one which Mr. Sparks has discovered; and with it is the true line, in dots, running up to the north-west corner of Nova Scotia. It was no secret in Mr. Jefferson's time, as its position now proves. It was of no weight in the determination of the boundary, as Mr. Jefferson's own map shows, made also in the year 1784, giving us all up to the north-west corner of Nova Scotia, and all the commanding islands which we have since lost by diplomacy—Campo-bello, Grand Menan, Bois-blanc, and the grand trading route between Lake Superior and the Lake of the Woods; and it was of no weight in Mr. Jefferson's mind in any way, as his correspondence on the various attempts to settle the North-eastern boundary constantly showed. But I leave all this to the Senator from Mississippi, (Mr. WALKER,) who has already done good execution upon Mr. Sparks's revelation. I limit myself to the production of the maps, one of which shows that Mr. Sparks's secret is no secret; and the other of which shows us the true boundaries of the United States, as settled by the treaty of Independence, and before diplomacy had mystified and mutilated it, and which gives us the commanding route through the long lakes west of Lake Superior; the Bois-blanc island, which commands the Detroit River; the islands of Campo-bello and Grand Menan, which command the Bay of Fundy; and the lofty mountain which covered Maine, and commanded Quebec; all of which British diplomacy has taken from us.

I turn to the device of our Secretary negotiator, and his attempt to ravish a ratification from us by means of this raw head and bloody bones, and his attempt to impose, as a secret upon the Senate, what was evidently known to Lord Ashburton. Taken in any way, and it is a most disreputable contrivance. If Dr. Franklin's pretended marks are the true lines, and we have found a piece of evidence which defeats our claim to one-third of Maine, then honor requires us to show it to the British; if, on the other hand, these marks are the same with those on the map I produce, and are of no value, then the Senate has been bamboozled; and, in either event, the secrecy demanded of us has not been required of Lord Ashburton, who shows very clearly that he has scented the existence of Mr. Sparks's discoveries! The Senator from Virginia, (Mr. RIVES,) chairman of the Committee on Foreign Relations, read a paragraph from his Lordship's letter of the 11th of July, to show the danger we were in of losing more than the treaty gave (by the

British finding out our secret) if we did not immediately ratify it. I read the same, for the purpose of showing that the British minister knew our secret before we knew it ourselves! This is his paragraph:

"My inspection of these maps, and my examination of the documents, lead me to a very strong conviction that the highlands contemplated by the negotiators of the treaty were the only highlands then known to them at the head of the Penobscot, Kennebec, and the rivers west of the St. Croix; and that they did not precisely know how the north line from the St. Croix would strike them; and, if it were not my wish to shorten this discussion, I believe a very good argument might be drawn from the words of the treaty in proof of this. In the negotiations with Mr. Livingston, and afterward with Mr. McLane, this view seemed to prevail; and, as you are aware, there were proposals to search for these highlands to the west, where alone I believe they will be found to answer perfectly the description of the treaty. If this question should unfortunately go to a further reference, I should by no means despair of finding some confirmation of this view of the case."

Here we have the new-discovered line shadowed forth for us, along the heads of the Penobscot and the Kennebec, and west of the St. Croix, as marked in the secret map from Paris, and the public one from our library, with the expression of the opinion that it will answer perfectly the description of the treaty; with the significant declaration that his Lordship will not despair of finding some confirmation of his opinion, if the question goes to further reference. I submit this paragraph as evidence that his Lordship had already found Mr. Sparks's discoveries, and placed as little value upon them as I do, and has only given these hints to assist at the ratification of the treaty. After this, what are we to think of the private exhibitions of this Paris discovery to Senators before it was given to the Senate? What must we think of the invocations to secrecy with which it was communicated to us? What must we think of such a mode of operating upon the Senate? And, above all, what must we think of the treaty which, in the opinion of its negotiator, requires a resort to such contrivances to procure its ratification?

I have finished my view of this treaty, for what it contains, and will not recapitulate any thing. I find the treaty objectionable in every point of view, for what it contains—for what it omits—for the manner of making it—and the manner of seeking its ratification. Applause is bestowed upon it. That is a matter of course with all things done by any Government. But, to any one who knows the exertions made by the British Government to procure our assent to the award, it must be known that such a treaty as this might have been made on any day by mail. Such a paper as that marked B, and identified by the signature of our Secretary, and by him communicated to the Maine commissioners,—such a paper as that, transmitted by mail to London, would have had its

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response by return mail, accepting it *in toto*, and sending us as much money into the bargain, if we had asked it, as would have paid our new public debt many times over. The cry of war is raised, if the treaty is not ratified. The British were not going to war, because we would not give them double as much as they were anxious to receive under the award. That much they intended to have, if it could be got; and for that they intended to bully up to the point of holding the lighted match over the loaded and primed cannon. Whether they touched the match would depend upon our countenance—the war countenance of our Government. This I always told the Senator from Maine, [looking at Mr. WILLIAMS.] I made no speeches when such brave ones were uttered on this floor; but I constantly told him that Maine was in danger! and if any thing saved her, it would be the war countenance of the American Government. [Mr. WILLIAMS nodded assent.] Unhappily, they have found a time when our Government has no war countenance to show! when a peace embassy has been sufficient to frighten our administration out of double as much as the British asked in Jackson's and Van Buren's time! The refusal to make this treaty would have brought no war; its ratification will bring war in the run of time. There are unsettled subjects, which cannot be settled with honor or safety after the ratification of this treaty. Contempt is now our portion from the British. Her present success will increase her audacity. The Columbia will be now considered hers; impressment will be revived when it suits her; liberation of slaves in Canada and the West Indies will go on; the affair of Schlosser will be repeated as often as it pleases the colonial authorities. The four deferred subjects are now incapable of being settled, except on terms to which war—the most exasperated war will be preferable. I look upon the ratification of this treaty as a calamity to the country; still I am not insensible to the embarrassment of Senators who yield it a reluctant assent. They expect nothing better. After the manner in which our claim has been weakened, and the British strengthened, by the conduct of our Secretary—by his surrender of 110 miles on this side the awarded line—by his \$500,000 for Rouse's Point; and, above all, by his arraying the authority of Dr. Franklin against us, to the whole extent of the British claim down to the Penobscot;—after this, they expect nothing better than we have got, and are ready to close a bad bargain for fear it becomes worse. They yield reluctantly; and every patriot bosom in Maine and Massachusetts must now repent the rejection of the award, and hold the man to account who, rejecting it, has made a treaty so much worse.

I proceed to the omitted subjects; and here the objections to the treaty are fully as great for what it omits as for what it contains. The special mission came gloriously heralded as a

mission of peace—to settle every thing; and to give a new point of departure to the inhabitants of two great countries in the walks of social, commercial, and political intercourse. It has only settled part; leaving four subjects out of seven to be pursued at London, with vastly diminished prospects of success; and producing all the effect of a separate treaty with a part of the confederacy, and that at the moment when British legislation had given a separate trade, and virtually a free trade, to this same part, in the great staples of grain and provisions. The mission of peace has given a separate peace to the Northern States: the new corn law has given them a separate trade; and the American citizen is very differently constituted from what I am, who can believe these coincidences to be the effect of accident, or a cause for joy in the American Union.

The omitted or pretermitted subjects are four: the Columbia River—impressment—the outrage on the Caroline—and the liberation of American slaves, carried by violence or misfortune into the British West India islands, or enticed into Canada. Of these, I begin with the Columbia, because equal in importance to any, and, from position, more particularly demanding my attention.

[Here Mr. B. went into an extended examination of our title to the Columbia.]

Impressment is another of the omitted subjects. This having been a cause of war in 1812, and being now declared, by the American negotiator, to be a sufficient cause for future wars, it would naturally, to my mind, have been included in the labors of a special mission, dedicated to peace, and extolled for its benevolent conception. We would have expected to find such a subject, after such a declaration, included in the labors of such a mission. Not so the fact. The treaty does not mention impressment. A brief paragraph in the President's Message informs us that there was a correspondence upon this point; and, on turning to this correspondence, we actually find two letters on the subject: one from Mr. Webster to Lord Ashburton—one from Lord Ashburton to Mr. Webster: both showing, from their dates, that they were written after the treaty was signed; and, from their character, that they were written for the public, and not for the negotiators. The treaty was signed on the 9th of August; the letters were written on the 8th and 9th of the same month. They are a plea, and a reply; and they leave the subject precisely where they found it. From their date and character, they seem to be what the lawyers call the *postea*—that is to say, the afterwards; and are very properly postponed to the end of the document containing the correspondence, where they find place on the 120th page. They look *ex post facto* there; and, putting all things together, it would seem as if the American negotiator had said to the British lord, (after the negotiation was over:) My Lord, here is im-

pressment—a pretty subject for a composition; the people will love to read something about it; so let us compose. To which, it would seem, his Lordship had answered: You may compose as much as you please for your people; I leave that field to you: and when you are done, I will write three lines for my own Government, to let it know that I stick to impressment. In about this manner, it would seem to me that the two letters were got up; and that the American negotiator in this little business has committed a couple of the largest faults: first, in naming the subject of impressment at all! next, in ever signing a treaty, after having named it, without an unqualified renunciation of the pretension!

Sir, the same thing is not always equally proper. Time and circumstances qualify the proprieties of international, as well as of individual intercourse; and what was proper and commendable at one time, may become improper, reprehensible, and derogatory at another. When George the Third, in the first article of his first treaty with the United States, at the end of a seven years' war, acknowledged them to be free, sovereign, and independent States, and renounced all dominion over them, this was a proud and glorious consummation for us, and the crowning mercy of a victorious rebellion. The same acknowledgment and renunciation from Queen Victoria, at present, would be an insult for her to offer—a degradation for us to accept. So of this question of impressment. It was right in all the administrations previous to the late war, to negotiate for its renunciation. But after having gone to war for this cause; after having suppressed the practice by war; after near thirty years' exemption from it;—after all this, for our negotiator to put the question in discussion, was to compromise our rights! To sign a treaty without its renunciation, after having proposed to treat about it, was to relinquish them! Our negotiator should not have mentioned the subject. If mentioned to him by the British negotiator, he should have replied, that the answer to that pretension was in the cannon's mouth!

[Several Senators exclaimed, Yes! in the cannon's mouth!]

But to name it himself, and then sign without renunciation, and to be invited to London to treat about it;—to do this, was to descend from our position; to lose the benefit of the late war; to revive the question; to invite the renewal of the practice, by admitting it to be an unsettled question—and to degrade the present generation, by admitting that they would negotiate where their ancestors had fought. These are fair inferences; and inferences not counteracted by the euphonious declaration that the American Government is "prepared to say" that the practice of impressment cannot, hereafter, be allowed to take place!—as if, after great study, we had just arrived at that conclusion! and as if we had not declared much

more courageously in the case of the *Maine* boundary, the *Schlosser* massacre, and the *Oreole* mutiny and murder! The British, after the experience they have had, will know how to value our courageous declaration, and must pay due respect to our flag! For one, I never liked these declarations, and never made a speech in favor of any one of them; and now I like them less than ever, and am prepared to put no further faith in the declarations of gentlemen who were for going to war for the smallest part of the *Maine* boundary in 1838, and now surrender 800 miles of that boundary for fear of war, when there is no danger of war. I am prepared to say that I care not a straw for the heroic declarations of such gentlemen. I want actions, not phrases. I want Mr. Jefferson's act in 1806—rejection of any treaty with Great Britain that does not renounce impressment! And, after having declared by law, black impressment on the coast of Africa to be piracy; after stipulating to send a fleet there, to enforce our law against that impressment;—after this, I am ready to do the same thing against white impressment on our own coasts, and on the high seas. I am ready to enact that the impressment of my white fellow-citizens out of an American ship is an act of piracy; and then to follow out that enactment in its every consequence.

The case of the *Oreole*, as it is called, is another of the omitted subjects. It is only one of a number of cases (differing in degree, but the same in character) which have occurred within a few years, and are becoming more frequent and violent. It is the case of American vessels, having American slaves on board, and pursuing a lawful voyage, and being driven by storms or carried by violence into a British port, and their slaves liberated by British law. This is the nature of the wrong. It is a general outrage, liable to occur in any part of the British dominions, but happens most usually in the British West India islands, which line the passage round the Florida reefs in a voyage between New Orleans and the Atlantic ports. I do not speak of the 12,000 slaves (worth, at a moderate computation, considering they must be all grown, and in youth or middle life, at least \$6,000,000) enticed into Canada, and received with the honors and advantages due to the first class of emigrants. I do not speak of these, nor of the liberation of slaves carried voluntarily by their owners into British ports; the man who exposes his property wilfully to the operation of a known law, should abide the consequences to which he has subjected it. I confine myself to cases of the class mentioned—such as the *Encomium*, the *Comet*, the *Enterprise*, the *Oreole*, and the *Hermosa*—cases in which wreck, tempest, violence, mutiny, and murder, were the means of carrying the vessel into the interdicted port, and in which the slave property, after being saved to the owners from revolt and tempest, became the victim and the prey of British law. It is of such cases

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that I complain, and of which I say that they furnish no subject for the operation of injurious laws, and that each of these vessels should have been received with the hospitality due to misfortune, and allowed to depart with all convenient despatch, and with all her contents of persons and property. This is the law of nations: it is what the civilization of the age requires. And it is not to be tolerated in this nineteenth century that an American citizen, passing from one port to another of his own country, with property protected by the laws of his country, should encounter the perils of an unfortunate navigator in the dark ages, shipwrecked on a rude and barbarous coast. This is not to be tolerated in this age, and by such a power as the United States, and after sending a fleet to Africa to protect the negroes. Justice, like charity, should begin at home; and protection should be given where allegiance is exacted. We cannot tolerate the spoil and pillage of our own citizens, within sight of our own coasts, after sending 4,000 miles to redress the wrongs of the black race. But if this treaty is ratified, it seems that we shall have to endure it, or seek redress by other means than negotiation. The previous cases were at least ameliorated by compensation to their owners for the liberation of the slaves; but in the more recent and most atrocious case of the Creole, there is no indemnity of any kind—neither compensation to the owners, whose property has been taken; nor apology to the Government, whose flag has been insulted; nor security for the future, by giving up the practice. A treaty is signed without a stipulation of any kind on the subject; and, as it would seem, to the satisfaction of those who made it, and of the President, who sends it to us. A correspondence has been had; the negotiators have exchanged diplomatic notes on the subject; and these notes are expected to be as satisfactory to the country as to those who now have the rule of it. The President, in his Message, says:

"On the subject of the interference of the British authorities in the West Indies, a confident hope is entertained that the correspondence which has taken place, showing the grounds taken by this Government, and the engagements entered into by the British minister, will be found such as to satisfy the just expectations of the people of the United States."—Message, Aug. 9.

This is a short paragraph for so large a subject; but it is all the Message contains. But let us see what it amounts to, and what it is that is expected to satisfy the just expectations of the country. It is the grounds taken in the correspondence, and the engagements entered into by the British minister, which are to work out this agreeable effect. Now, let us see what these grounds and these engagements are.

The grounds for the public satisfaction are in the Secretary's letters; the engagement is in Lord Ashburton's letter; and what do they amount to? On the part of the Secretary, I

am free to say that he has laid down the law of nations correctly; that he has well stated the principles of public law which save from hazard, or loss, or penalty of any kind, the vessel engaged in a lawful trade, and driven or carried against her will into a prohibited port. He has well shown that, under such circumstances, no advantage is to be taken of the distressed vessel; that she is to be received with the hospitality due to misfortune, and allowed to depart, after receiving the succors of humanity, with all her contents of persons and things. All this is well laid down by our Secretary. Thus far his grounds are solid. But, alas, this is all talk! and the very next paragraph, after a handsome vindication of our rights under the law of nations, is to abandon them! I refer to the paragraph commencing: "If your Lordship has no authority to enter into a stipulation by treaty for the prevention of such occurrences hereafter," &c. This whole paragraph is fatal to the Secretary's grounds, and pregnant with strange and ominous meanings. In the first place, it is an admission, in the very first line, that no treaty stipulation to prevent future occurrences of the same kind can be obtained here! that the special mission, which came to settle every thing, and to establish peace, will not settle this thing; which the Secretary, in numerous paragraphs, alleges to be a dangerous source of future war! This is a strange contradiction, and most easily got over by our Secretary. In default of a treaty stipulation, (which he takes for granted, and evidently makes no effort to obtain,) he goes now to solicit a personal engagement from his Lordship; and an engagement of what? That the law of nations shall be observed? No! but that instructions shall be given to the British local authorities in the islands, which shall lead them to regulate their conduct in conformity with the rights of citizens of the United States, and the just expectations of their Government, and in such manner as shall, in future, take away all reasonable ground of complaint. This is the extent of the engagement which was so solicited, and which was to supply the place of a treaty stipulation! If the engagement had been given in the words proposed, it would not have been worth a straw. But it is not given in those words, but with glaring and killing additions and differences. His Lordship follows the commencement of the formula with sufficient accuracy; but, lest any possible consequence might be derived from it, he takes care to add, that when these slaves do reach them, "no matter by what means," there is no alternative! Hospitality, good wishes, friendly feeling, the duties of good neighborhood—all give way! The British law governs! and that law is too well known to require repetition. This is the sum and substance of Lord Ashburton's qualifications of the engagement; and they show him to be a man of honor, that would not leave the Secretary negotiator the slightest room for raising a doubt as to the na-

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ture of the instructions which he engaged to have given. These instructions go only to the mode of executing the law. His Lordship engages only for the civility and gentleness of the manner—the *suaviter in modo*—while the firm execution of the law itself—the *fortiter in re*—remains as it was. The engagement is against officiousness—inquisitiveness—in finding out the arrival of the slaves; but, after it is found out, the law takes its course. This is the extent of this famous engagement—a promise to get the local authorities instructed to perform the operation of liberation, politely, but still to liberate.

I take the case itself, from the account of it given in January last by the Secretary of State to our minister in London, instructing him to demand satisfaction for that outrage from the Government of Great Britain. This is his statement, and part of his instructions to Mr. Everett:

“The Creole was passing from one port of the United States to another, in a voyage perfectly lawful, with merchandise on board, and also with slaves, or persons bound to service, natives of America, and belonging to American citizens, and which are recognized as property by the constitution of the United States in those States in which slavery exists. In the course of the voyage, some of the slaves rose upon the master and crew, subdued them, murdered one man, and caused the vessel to be carried into Nassau. The vessel was thus taken to a British port—not voluntarily, by those who had the lawful authority over her; but forcibly and violently, against the master's will, and with the consent of nobody but the mutineers and murderers; for there is no evidence that these outrages were committed with the concurrence of any of the slaves, except those actually engaged in them. Under these circumstances, it would seem to have been the plain and obvious duty of the authorities at Nassau, the port of a friendly power, to assist the American consul in putting an end to the captivity of the master and crew, restoring to them the control of the vessel, and enabling them to resume their voyage, and to take the mutineers and murderers to their own country to answer for their crimes before the proper tribunal. One cannot conceive how any other course could justly be adopted, or how the duties imposed by that part of the code regulating the intercourse of friendly States, which is generally called the comity of nations, could otherwise be fulfilled. Here was no violation of British law attempted or intended on the part of the master of the Creole, nor any infringement of the principles of the law of nations. The vessel was lawfully engaged in passing from port to port in the United States. By violence and crime she was carried, against the master's will, out of her course, and into the port of a friendly power. All was the result of force. Certainly, ordinary comity and hospitality entitled him to such assistance from the authorities of the place as should enable him to resume and prosecute his voyage, and bring the offenders to justice. But, instead of this, if the facts be as represented in these papers, not only did the authorities give no aid for any such purpose, but they did actually interfere to set free the slaves, and to enable them to disperse

themselves beyond the reach of the master of the vessel or their owners. A proceeding like this cannot but cause deep feeling in the United States.

“It has been my purpose to write you at length upon this subject, in order that you might lay before the Government of her Majesty, fully, and without reserve, the views entertained upon it by that of the United States, and the grounds on which those views are taken. But the early return of the packet precludes the opportunity of going thus into the case in this despatch; and as Lord Ashburton may shortly be expected here, it may be better to enter fully into it with him, if his powers shall be broad enough to embrace it. Some knowledge of the case will have reached England before his departure; and very probably his Government may have given him instructions. But I request, nevertheless, that you lose no time in calling Lord Aberdeen's attention to it in a general manner, and giving him a narrative of the transaction, such as may be framed from the papers now communicated; with a distinct declaration, that if the facts turn out as stated, this Government thinks it a clear case for indemnification.

“You will avail yourself of an early opportunity of communicating to Lord Aberdeen, in the manner which you may deem most expedient, the substance of this despatch; and you will receive further instructions respecting the case of the Creole, unless it shall become the subject of discussion at Washington.

“In all your communications with her Majesty's Government, you will seek to impress it with a full conviction of the dangerous importance to the peace of the two countries of occurrences of this kind, and the delicate nature of the questions to which they give rise.”

This was the case of the Creole, and it is well and clearly stated. Our Secretary writes well, but performs badly. He has well stated this case, and duly supported it by an argument against the legality of the conduct of the Nassau authorities, in favor of the just title of the injured owners to indemnification, and the necessity for a treaty stipulation to prevent the recurrence of cases so dangerous to the peace of the two countries. Mr. Everett was directed to press the case in London: the Secretary undertook to do it here, if Lord Ashburton brought the proper powers with him. The powers were not brought; nor have they been sent, or even sent for! Nothing in the case of the Creole has been done in London; nothing here; and now we are to ratify a treaty from which the whole case has been excluded, and to be content with a correspondence which contains a promise for an engagement which is a derision of our complaints. Five cases like those of the Creole, differing only in degree of atrocity, have occurred. In the two first, there was pecuniary compensation to the injured owners; in none of them has there been reparation to the insulted flag of the United States: and in the three latter, there has not even been a suggestion of indemnifying the owners. Great Britain is evidently assuming higher ground on the subject of slavery; and after the

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manner in which we have been coerced into a naval and diplomatic alliance against slave-takers, and after the quintuple treaty has been shown to us, there is no knowing what is in store for the slave possessors.

Sir, I hold that the honor of the Senate as a body, and the honor of the greater part of the Senators now present individually, is concerned in the settlement of this Creole case, and the others of the same class. We have done what involves our honor. We adopted resolutions on this subject—strong and just resolutions—and adopted them unanimously. They declare this conduct of the British local authorities to be a violation of the law of nations, and highly unjust to our citizens: and these resolutions, and the speeches in support of them, were forwarded to London, to be used by Mr. Everett in pressing the unsettled cases. Both the resolutions and speeches seem to have been disregarded in London: shall they be disregarded here? disregarded by the Senate which passed them, and by the Senators who spoke and voted for them? Here is the paragraph of the Secretary's letter which informs us of the transmission of these resolutions and speeches to London, to be laid before the British ministry:

"You are acquainted with the correspondence which took place a few years ago, between the American and English Governments, respecting the cases of the *Enterprise*, the *Comet*, and the *Encomium*. I call your attention to the Journal of the Senate of the United States, containing resolutions unanimously adopted by that body respecting those cases. These resolutions, I believe, have already been brought to the notice of her Majesty's Government; but it may be well that both the resolutions themselves, and the debates upon them, should be again adverted to. You will find the resolutions, of course, among the documents regularly transmitted to the legation, and the debates in the newspapers with which it has also been supplied from this department."

And here are the resolutions themselves:

"*Resolved*, That a ship or vessel on the high seas, in time of peace, engaged in a lawful voyage, is, according to the laws of nations, under the exclusive jurisdiction of the State to which her flag belongs; as much so as if constituting a part of her own domain.

"*Resolved*, That if such ship or vessel should be forced by stress of weather, or other unavoidable cause, into the port and under the jurisdiction of a friendly power, she and her cargo, and the persons on board, with their property, and all the rights belonging to their personal relations, as established by the laws of the State to which they belong, would be placed under the protection which the laws of nations extend to the unfortunate under such circumstances.

*Resolved*, That the brig *Enterprise*, which was forced, unavoidably, by stress of weather, into Port Hamilton, Bermuda island, while on a lawful voyage on the high seas, from one part of the Union to another, comes within the principles embraced by the foregoing resolutions; and that the seizure and detention of the negroes on board, by the local

authority of the island, was an act in violation of the laws of nations, and highly unjust to our own citizens to whom they belong."

I was not one of those who spoke in favor of these resolutions; I was satisfied with the speech of the mover, (Mr. CALHOUN,) and voted for them with a cordial good will. I deemed them correct then: I deem them so now. I consider all the cases of the *Comet*, the *Encomium*, the *Enterprise*, the *Creole*, and the *Hermosa*, to have been violations of the law of nations, a breach of good neighborhood, and a contempt for our Government. I cannot vote for the ratification of a treaty which refuses the slightest notice of these outrages, and remits us, for our "satisfaction," to the illusory stipulations of an empty and preposterous "engagement."

Sir, this offence against our ships and citizens is one of recent origin, but of increasing frequency, and of augmenting atrocity. It is evidently a part of the abolition crusade against slavery, and tends to excite insurrection and servile war in our country. The first case occurred in the year 1880; it was that of the *Comet*, which was stranded near the island of New Providence, and carried a wreck into Nassau, her slaves liberated, and the protest of the owners disregarded. These slaves were paid for. The next was that of the *Encomium*, in 1884—the same in all respects as the *Comet*, and with the same results: the owners of the slaves being eventually paid by the British Government. The third case was that of the *Enterprise*, whose fate was the subject of our resolves. It occurred in 1885; and was the case of a ship driven by tempest into the island of Bermuda, her slaves liberated, and the protest of the owners disregarded. For this outrage no atonement or compensation has been made, notwithstanding our brave resolutions, and their imposing communication to the British Government. Then came two cases together, worse than all the previous ones—the *Creole*, in January, 1842, and the *Hermosa* immediately after—cases, the one of mutiny, piracy, and murder; the other of violence on the part of wreckers. For these two outrages, as well as for that of the *Enterprise*, no indemnity or redress of any kind has been made. Pecuniary compensation to the owners—an inadequate redress to them, and no atonement to our insulted sovereignty—granted in the two first cases, is denied in the three last; and the go-by which has been given to the whole subject in this mission of peace, and the "satisfaction" expressed by the President, on behalf of the country, at this termination of the business, must, if sanctioned by the Senate, operate as an act of oblivion upon past outrages, and an invitation to the commission of new ones.

The term South, as indicating the slaveholding region in this Union, is now become a term of enlarged and extended application, and is fast shifting to the West. But lately applied to five Atlantic, it now includes seven transmon-



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tane States; the former decreasing; the latter increasing. The five Atlantic slave States lose fifteen Representatives under the late census: the seven Western gain eight. Their relative strength is now about equal. At the census of 1850, that of the Western seven must greatly preponderate; and, after that period, the gap between them must go on increasing, in the double ratio of the loss in one and the gain in the other. The slave interest, already equaling in the great West, that of the Atlantic, must soon find its chief seat there; and it behooves the Representatives from that quarter to attend in time to what must soon become a chief subject of their care. The liberation of slaves from wrecked vessels among the Bahama islands is but a branch of a vast system; but it is a branch of it which addresses itself directly to the slave States of the Valley of the Mississippi. The passage through these British islands is their line of communication with the Atlantic States, with the high seas, and with the whole world. They cannot tolerate the insecurity of that passage, either for themselves or their property. Rather they should say of that passage, and of the gulf from which it leads, as the Romans said of the Mediterranean—*mare nostrum*, and act upon the assumption. The masters of the Mississippi should command the outlet from the *rex fluviorum*. As a Senator from that great region, I feel the responsibilities of my position, and the gravity of the circumstances which surround us. The pretension to liberate slaves between New Orleans and the Atlantic States, is a blow at the Great West—one blow out of many which the anti-slave allies are preparing for her. This treaty, by shirking the question, sanctions that pretension; and I feel bound to oppose it. A treaty of peace, as it is called—the fruit of a mission sent out to settle every thing—the approved of a Southern President: it still leaves unsettled the large question which concerns the twelve States which stretch from the Atlantic to the Missouri, and from the 39th parallel of north latitude to the Gulf. Such a question, affecting so many States, and so pregnant of war, deserved to be settled—deserved something very different from ignominious exclusion from the treaty, and derisory dismissal to the safeguard of a correspondence and an engagement. The peace mission has put this question, and the subject of which it is part, on the high road to war. To go with the British to Africa, to fight for slaves, while the British are liberating, enticing away, and exciting to revolt, our slaves at home, is to commit a folly of which the fruit must be shame and resentment, and all their disastrous effects.

The case of the Caroline, to which I now proceed, completes the list of the seven subjects which the President informs us occupied the attention of the negotiators. He does not tell us that no other subjects occupied their deliberations; and the want of protocols disables us from knowing. I should like to know

whether the assumption of the State debts, or any provision or guarantee for their payment, constituted any part of the objects of the special mission. If they did, we ought to know it; and to know what was demanded on one side, and what was promised or denied on the other. Informality of the conference will make no difference. Every thing was informal in this anomalous negotiation. Wat Tyler never hated the ink-horn worse than our Secretary-negotiator hated it upon this occasion. It was only after a thing was finished, that the pen was resorted to; and then merely to record the agreement, and put a face upon it for the public eye. In this way many things may have been discussed, which leave no written trace behind them; and it would be a curious circumstance if so large a subject, and one so delicate as the State debts, should find itself in that predicament. In the absence of all evidence, I have no right to an opinion on the point; but, as a Senator, and a part of the treaty-making power, I have a right to know the facts; and shall submit a call upon the President for that purpose. [The call was submitted, but not acted upon for want of time.]

The Caroline is the last of the seven subjects in the arrangement which I make of them. I reserve it for the last; the extreme ignominy of its termination making it, in my opinion, the natural conclusion of a disgraceful negotiation. It is a case in which all the sources of national degradation seem to have been put in requisition:—diplomacy; legislation; the judiciary; and even the military. To volunteer propitiations to Great Britain, and to deprecate her wrath, seem to have been the whole concern of the Administration, when signal reparation was due from her to us.

And so ends the case of the Caroline and McLeod. The humiliation of this conclusion, and the contempt and future danger which it brings upon the country, demand a pause, and a moment's reflection upon the catastrophe of this episode in the negotiation. The whole negotiation has been one of shame and injury; but this catastrophe of the McLeod and Caroline affair puts the finishing hand to our disgrace. I do not speak of the individuals who have done this work, but of the national honor which has been tarnished in their hands. Up to the end of Mr. Van Buren's administration, all was safe for the honor of the country. Redress for the outrage at Schlosser had been demanded; interference to release McLeod had been refused; the false application of the laws of war to a state of peace had been scouted. On the 4th day of March, 1841, the national honor was safe; but on that day its degradation commenced. Timing their movements with a calculated precision, the British Government transmitted their assumption of the Schlosser outrage, their formal demand for the release of McLeod, and their threat in the event of refusal, so as to arrive here on the evening of

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the day on which the new Administration received the reins of Government. Their assumption, demand, and threat, arrived in Washington on the evening of the 4th day of March, a few hours after the inauguration of the new powers was over. It seemed as if the British had said to themselves: This is the time—our friends are in power—we helped to elect them—now is the time to begin. And begin they did. On the 8th day of March, Mr. Fox delivered to Mr. Webster the formal notification of the assumption, made the demand, and delivered the threat. Then the disgraceful scene began. They reverse the decision of Mr. Van Buren's administration, and determine to interfere in behalf of McLeod, and to extricate him by all means from the New York courts. To mask the ignominy of this interference, they pretend it is to get at a nobler antagonist; and that they are going to act the Romans, in sparing the humble and subduing the proud.\* It is with Queen Victoria with whom they will deal! McLeod is too humble game for them. McLeod released, the next thing is to get out of the scrape with the Queen; and for that purpose they invent a false reading of the law of nations, and apply the laws of war to a state of peace. The *jus belli*, and not the *jus gentium*, then becomes their resort. And here ends their grand imitation of the Roman character. To assume the laws of war in time of peace, in order to cover a craven retreat, is the nearest approach which they make to war. Then the special minister comes. They accept from him private and verbal explanations, in full satisfaction to themselves of all the outrage at Schlosser: but beg the minister to write them a little apology, which they can show to the people. The minister refuses; and thereupon they assume that they have received it, and proclaim the apology to the world. To finish this scene, to complete the propitiation of the Queen, and to send her minister home with legal and parchment evidence in his hand of our humiliation, the expression of regret for the arrest and detention of McLeod is officiously and gratuitously renewed; the prospect of a like detention of any of her Majesty's subjects in future is pathetically deplored; and, to expedite their delivery from State courts when they again invade our soil, murder our citizens, and burn our vessels, the minister is informed that Congress has been "*called*" upon to pass a law to protect them from these courts. And here "*a most serious fact*" presents itself. Congress has actually obeyed the "*call*,"—passed the act—secured her Majesty's subjects in future—and given the legal parchment evidence of his success to her minister before he departs for his home. The infamous act—the habeas corpus against the States—squeamishly called the "*remedial justice act*"—is now on the statute-book; the original polluting our code of law, the copy lying at the footstool of

the British Queen. And this is the point we have reached. In the short space of a year and a half, the national character has been run down from the pinnacle of honor to the abyss of disgrace. I limit myself now to the affair of McLeod and the Caroline alone; and say that, in this business, exclusive of other disgraces, the national character has been brought to the lowest point of contempt. It required the Walpole administration five-and-twenty long years of cowardly submission to France and Spain to complete the degradation of Great Britain: our present rulers have completed the same work for their own country in the short space of eighteen months. And this is the state of our America! that America which Jackson and Van Buren left so proud! that America which, with three millions of people, fought and worsted the British empire—with seven millions fought it, and worsted it again—and now, with eighteen millions, truckles to the British Queen, and invents all sorts of propitiatory apologies for her, when the most ample atonement is due to itself. Are we the people of the Revolution?—of the war of 1812?—of the year 1834? when Jackson electrified Europe by threatening the King of France with reprisals!

McLeod is given up, because he is too weak; the Queen is excused, because she is too strong; propitiation is lavished where atonement is due; an apology accepted where none was offered; the statute of limitations pleaded against an insult, by the party which received it! And the miserable performers in all this drama of national degradation expect to be applauded for magnanimity, when the laws of honor and the code of nations stamp their conduct with the brand of cowardice.\*

It is a noble maxim of the English law, that every Englishman's house is his castle—inaccessible to every intruder but the law! "Not that it was surrounded with walls and battlements; it might be a straw-built shed. The winds of heaven might whistle through it; all the elements of heaven might enter it; but the King could not—the King dare not—enter it." So said the great Lord Chatham of the English—

\* Every individual is permitted to recede from his rights to abandon a just subject of complaint or to forget an injury. But the conductor of a nation is not as free, in this respect, as a private person. The latter may hear only the voice of generosity, and, in an affair which interests none but himself alone, deliver himself up to the pleasure he finds in doing good, to his love of peace and tranquillity. The representative of a nation—a sovereign—cannot consult himself; cannot abandon himself to his own inclination. The rights of the nation are benefits of the nation—are benefits of which the sovereign is only administrator, and he ought to dispose of them no further than as he has reason to believe the nation itself would dispose of them. \* \* \* Seldom is it safe for a nation to dissemble or pardon an injury, unless it be manifestly in a situation to crush those who are so rash as to dare to offend it. It is then glorious to pardon those who acknowledge their faults. *Parcere subjectis et debellare superbos*: and it may do this with safety. But, between two powers that are nearly equal, suffering an injury, without requiring complete satisfaction, is almost always imputed to weakness or cowardice: it is the means of soon receiving from them those that are most atrocious.

\* *Parcere subjectis, et debellare superbos*.—Mr. Bloor's speech.

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man and his house. Not so with us, in this fallen state of our country. We have no king here, it is true, to break into our houses; but we have a Queen of England to send her Canadian subjects here to do it—to send them here to attack, kill, burn, and capture! and then to return to their royal mistress, to receive the rewards which are due to the chastisers of her Majesty's bad neighbors.

I have now finished what I had to say against the ratification of this treaty; and, in coming to the conclusion of so great a subject, and one to which I have made so much opposition, I deem it due to the occasion to declare my future course in relation to it. I take it for certain that the treaty will be ratified—reluctantly and unwillingly ratified. In that event, I shall abide by it in all its provisions which come within the pale of the treaty-making power—oppose it in all that lies beyond that pale. The national boundaries come within the pale; and they must remain as they are established, bad as they are. The money payments to Maine and Massachusetts are domestic and legislative questions; and, as claims addressed to Congress, I shall consider them, and do what I believe to be right. As treaty stipulations, I shall resist these payments; for I cannot admit the policy or the right of Great Britain to interfere between the Union and its members, and to acquire the character of mediator, protector, guarantee or remonstrant between them. The fugitive offenders article I consider inoperative without the aid of an act of Congress; and that aid I shall be unwilling to give, because I consider the stipulations of the article as dangerous to foreigners who may come to our country, and useless to us, in the two eminent cases in which the surrender of fugitive criminals would be most wanting—the cases of slaves and counterfeiters. The alliance articles, both naval and diplomatic, I hold to be beyond the pale both of the treaty-making and legislative power, and eminently dangerous and unwise; and shall oppose them in all the forms in which the question of their execution shall come before me. I shall defeat the appropriations for this African squadron, and for the pay and outfit of these remonstrating ambassadors, if I can; and if Great Britain complains, and demands the execution of the treaty in these particulars, I shall consider it a demand for the tribute—the tribute in men, money, and ships—which we are to pay her for five years' exemption from British search, and for so many years' reprieve from intended subjugation to the quintuple alliance.

Mr. Woodbury said the great question of the North-eastern boundary was the essential part of the instrument; and as an attempt appeared to have been made, through the chairman, to cast a doubt over our former claims on that frontier, in consequence of the discovery of some new maps, Mr. W. felt bound at once to repel it. Whether he should vote to ratify this part of the treaty, or not—according as

full consideration might in the end seem to require—this much is certain: that he never should approve it on the ground that our title to the whole of the disputed territory was in the smallest degree shaken by any thing which has yet appeared. Other high and momentous motives, connected with peace and war, as well as with the conduct of future negotiations or hostilities by a party so doubtful as to trustworthiness, and so embarrassed as that now in power; others connected with the recent assent of Maine and Massachusetts—the States alone directly interested—to the particular boundary adopted in the treaty; and others looking to the diminished importance, yearly, of all questions of boundary between us and neighboring powers on this continent, where we grow so much faster than they, and are destined ere long to be supreme—might justify a ratification of the present stipulations. We shall see in a few days.

But, to seek an apology for doing it, in arguments against our undoubted rights, derived from loose conjectures of itinerant Americans in Europe, or from suggestions calculated to belittle the claim, and injure the reputation of one of the able negotiators of the treaty of 1783, did not seem to Mr. W. very patriotic, or at all warranted by any of the facts in the case.

The French map of 1745, which, with its red lines, running west from the St. Croix, had been made to occupy so prominent a position in this debate, was doubtless one illustrating the boundaries between the French and British colonies in America, before the conquest of Canada by England, and its cession in 1763.

There is a similar map in the French atlas, on the table of the Secretary, which I procured from the State Department. The publications of that day are full of corresponding descriptions, as well as maps, on the part of France. But, at the same time, Great Britain, with whom we are now treating, and whose claims then are ours now, always resisted the claims of France to crowd the southern limits of Canada so far south, and the western limits of Nova Scotia so far west.

Instead of permitting Nova Scotia, or Acadia, to come to the Kennebec, or even to the Penobscot, she herself originally granted it to come only to the St. Croix, and made and described its western line as one running north from the source of that river till it reached some stream connected with the navigable waters of the St. Lawrence. Here is her Latin charter of that province, and an English translation, giving this, in substance; and it was this boundary, with a slight change, to which England claimed uniformly to the very last moment of her jurisdiction over what now constitutes these United States.

The change is this: After the conquest of Canada, being then possessed of Nova Scotia also, she carried the boundaries of Canada south to the heights which turn the northern

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rivers into the St. Lawrence; but, independent of that, she kept the boundary of Nova Scotia virtually the same as before; and the same as Mitchell, her own geographer under the Lords of Plantations, had laid it down in 1755 on his map; and the same as has ever been claimed by this country since the peace of 1783.

Now, let it be recollected that this British official map of Mitchell was before the commissioners who formed the treaty of 1783. Both sides concede this, in the arguments prepared for the King of Holland, now in my hand. Recollect, too, that the line on that map runs due north from the source of the St. Croix till it strikes the St. Lawrence; and not west from the St. Croix, as on this French map. Recollect that the line described in the treaty is to run north of the St. Croix, precisely as it appears on that map, till it strikes the highlands from which spring the tributaries of the St. Lawrence, and which are near to its bank. Recollect that Doctor Franklin was by birth a Massachusetts man, and had been the agent of that province, and familiar with all its claims to boundary up to that line.

Recollect that he had got inserted into the preliminaries of peace an agreement to go still further east, and make the St. John, from its mouth to its source, the boundary, as more convenient, and, in many respects, more eligible to us than the old boundary.

Recollect that, when coming to sign the treaty, this was so strenuously opposed by England, on the ground of its being a new cession of territory, that the old line was agreed to be adhered to, and was intended to be described in the treaty.

Recollect all these circumstances; and then say, how could he, in a letter to Count Vergennes on the 6th of December, 1782, mean to refer to any map but Mitchell's, or any line on that or any other map, except the old line, as there laid down, till it reached the highlands north of, and near the St. Lawrence? He lacked neither information, vigilance, nor shrewdness. But a supposition (which some gentlemen make) that he referred to some map having our boundary-line run nearly west from the St. Croix, and cutting us off, also, from the sources of even the Penobscot, Kennebec, and Connecticut—a line not running north at all, as the treaty requires—a line not touching in that direction any highlands which turn waters into the St. Lawrence, as the treaty requires—a line contrary to Mitchell, and all the former British as well as Massachusetts claims—and a line at war with even his own express instructions—is an imputation of carelessness and ignorance altogether unfounded in any facts before us. It does not appear that he ever saw the old French map spoken of, and of which a partial copy is sent to us—much less referred to it—and the red lines on it are undoubtedly the old French lines, put on it when made in 1745, instead of 1782; and are those claimed by France when she owned Nova Scotia and

Canada, and were never thought of as describing the boundary between us and England, as arranged in the treaty of peace.

For further confirmation of this view, and of the validity of our whole claim, Doctor Franklin, only eight days after, (viz. December 14, 1782,) wrote to Mr. Livingston that the old line of boundary was agreed on, and was to be run out afterwards between the parties. (See, also, his letter on the 14th of October, 1782, but twenty-three days previous.) Here are both the letters, in the argument prepared for the King of Holland in 1827.

So, nearly thirty other maps, published by England and her citizens, between 1768 and 1783, draw the boundary line as we claim it. Indeed, Mr. Gallatin collected more than fifty of that kind, in all; and one in Mr. Jefferson's collection, engraved in 1783, to show the limits under the treaty, by Osgood Carlton—a man of science and practical skill, as well as belonging to Massachusetts, and well acquainted with her localities. Before any controversy, or any motive existed to mislead, he laid down the boundary there as now claimed; and, to avoid mistakes as to dotted lines or coloring, he had printed on the map itself that this eastern line, as we have always claimed it, was "the boundary line between Britain and America," under the treaty of peace. Another map before me, in Mr. Gallatin's last memoir, made by Gov. Pownall, in 1776, lays down the same line as the eastern limit of Massachusetts; and others still, of the same date, by Carver, and others; and another by Bowen, in 1763. These are all English in their origin—several of them official in their character—and the whole, so far as regards the evidence to be derived from maps, entirely conclusive as to the right of the United States to the whole territory in dispute.

Mr. W. said he could fortify this position by a mass of documents and evidence of a different character; for he had devoted considerable attention to this topic ever since 1819, when the north-western boundary of New Hampshire had become hazarded in the controversy concerning some of the limits in the treaty of 1783. But he should occupy too much time, if he now entered into this point further.

[Several Senators said, No: go on.]

Mr. W. observed that, at this late period of the session, he felt reluctant to do it; though, before sitting down, he would advert a moment to one other reason which had been urged for assenting to the treaty, with diminished limits on the north-east. It was, that certain equivalents had been gained elsewhere, and, among the rest, on the north-western boundary of New Hampshire. This last impression was erroneous. He must say, once for all, that we had not gained a foot of land there to which that State was not clearly entitled.

Without entering into details, which might be tedious to others than citizens of New Hampshire, it was enough to say, on this occasion, that the north-westernmost head of

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Connecticut River—which was the boundary described in the treaty of 1788—was still further west than Hall's Stream, described in this treaty of 1842. That head was Lynch's Stream; and, as is apparent on Bouchette's map of Canada, (hanging before us,) would, if adopted, give to the United States several thousand acres more land than we now obtained. But, as New Hampshire had not surveyed and exercised jurisdiction west of Hall's Stream, she could not insist on going further on her account; and the land between that stream and Lynch's, if awarded to the United States, must, therefore, belong to the General Government.

It was for them, then, and not for her to complain, as to what was lost between those two streams. But that New Hampshire had a right to go as far as Hall's Stream, was apparent on all the modern maps made since the country was explored fully, as being more north-west than Indian Stream, or Perry's Brook, or the main branch of the Connecticut. This last was strangely selected by the King of Holland as the north-westernmost head, when it is the north-east one. It was also apparent on both Bowen's and Pownall's maps, made as long ago as 1776, as well as several others.

But, beyond this, the State of New Hampshire had, as early as 1789, surveyed to the source of this very stream, and run down to its mouth, as her north-west boundary; and ever since, when occasion required, had exercised jurisdiction to it.

All this, with other proofs, are fully detailed in a document referred to in the correspondence before us, which was prepared by myself, and published in the second volume of the New Hampshire Historical Collections, as long ago as 1827.

He took this occasion to do the justice to both the Secretary of State and Lord Ashburton, to add, that, after the New Hampshire delegation invited attention to that document, and one of them explained the strong evidence which existed in it against the narrower line first proposed in this negotiation, as set out in page 67 of the correspondence, they both seemed satisfied that New Hampshire should rightfully hold to Hall's Stream.

Let our decision, then, be what it may on the whole treaty, he must insist that, if in favor of the ratification, (as it probably would be,) it should not be so on account of any just doubt created by the old maps concerning the full claim of Maine, as originally set up; nor on any account of any equivalent in any new territory obtained for New Hampshire, beyond what her original limits justified, and what she had long claimed and enjoyed.

[On the ensuing day, the chairman referred to some correspondence, in 1833, between the British Government and the State Department, showing a willingness on our side to deviate west from a due-north line from the St. Croix, provided such highlands as are described in the

treaty of 1788 were not discovered at the end of that line. And he, as well as Mr. EVANS, argued thence, that the original claim had been in some respect abandoned by the past Administration. The chairman also referred to some new letters by Lord Palmerston, showing that in the case of the Caroline the American Executive, or, at least, the Secretary of State—knew, before 1840, that Great Britain intended to make no apology for that outrage.]

Mr. WOODBURY expressed his regret that the conduct of two of his former associates in office had been called in question who were not now here—and, he lamented to add, were not in existence—so as to vindicate themselves. He must ask the indulgence of the Senate a few minutes, to correct what he considered an erroneous impression as to the conduct of both of them.

The proposition made by Mr. Livingston, as to a deviation from a due-north line, was only hypothetical—was very limited in its effects, in any event—and originated in this way: As long ago as 1827 or 1828, when considering the convention to refer this controversy to the arbitrament of the King of Holland, some gentlemen in the Senate had suggested that, after a due-north line from the source of the St. Croix crossed the St. John, and approached the highlands whence streams flow into the St. Lawrence one way, and the Atlantic Ocean the other, it would first strike some streams running into the Bay of Chaleurs, or the Gulf of St. Lawrence. They thence argued that it might be necessary, in that event, to deviate a little to the west, and go round the sources of those streams till those highlands were reached from which waters flowed into the St. Lawrence to the north, and into the Atlantic Ocean to the east and south-east. The treaty of 1788 also called for natural monuments at that point, by calling for highlands of that character, as well as mentioned a descriptive corner in the north-west angle of Nova Scotia. Mr. Livingston supposed that, in fact, both would be found to agree or coincide at a due-north point, as he says in his letter; but if they should not, he adds—as a lawyer would, and must, on sound legal principles—that the natural monuments must govern, rather than the descriptive corner.

All he proposed, then, was what the law of the case required—which is, that if the monument and the angle were not found to coincide, a deviation might be made to the west far enough to strike the natural monument. But every one can see by this map of the commissioners, that the deviation, if made at all, instead of coming down near the British line at Mars Hill, or even to the St. John, would be only a few miles west from a line due north from the St. Croix—being a gore, wider at one end, and a point at the other—leaving nine-tenths of the whole claim, if not all, with Maine, as before.

What is very conclusive evidence that the

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British, as well as Mr. Livingston, knew that this deviation must be small, if any, the proposition was refused by their ambassador.

So far from there being any pretence, then, that the deviation could in fact come south of the St. John, it is stated in Sir Charles Vaughan's letter expressly that it could not, in any event, probably go south of the St. John, nor even much beyond the St. Francis; and he adds that

"The assent of the British Government to the proposition of Mr. Livingston would concede to the Government of the United States nearly all they had hitherto claimed."—*Message to Senate, 24th Cong., 1st sess., Doc. 414, p. 17.*

Let us, then, hear no more of this as an abandonment of the American claim, either in the view of the American cabinet, or of their lynx-eyed British opponents.

In respect to Lord Palmerston's recent letter, imputing to the past Administration, or to Mr. Forsyth, before 1840, any official knowledge that the British Government had decided to make no apology for the outrage on the Caroline, and to assume the act as their own; Mr. W. thought, when he heard the letter read, there must be some singular misconception or marvellous impudence in the charge. No man possessed a higher sense of honor, or sterner independence, than Mr. Forsyth. He was the last man in the nation to conceal any thing through fear—the last man to delay bringing difficulties to a point through subserviency.

Looking at the rest of the correspondence with Lord Palmerston by Mr. Stevenson, it appears (as was to have been expected) that the latter at once, and categorically, repels the imputations of the British Secretary. He proceeds also to prove that no just ground for them could exist, in any thing communicated by Mr. Fox to Mr. Forsyth, or by Lord Palmerston to Mr. Stevenson. And when, in a second letter of Lord Palmerston, (not read by the chairman,) an attempt is made to qualify the first charge, and to soften it into one not implicating any conduct in the American Secretary, minister, or President, as at all dishonorable, Mr. Stevenson replies again, and insists that, whether honorable or dishonorable, in his Lordship's opinion, the facts of the case had by Lord Palmerston been entirely misapprehended.

The correspondence, as a whole, nullifies completely the imputation made by the British Secretary; and any inference drawn from it by the chairman, (Mr. Rives,) either derogatory to the past Administration, or favorable to the greater condescension supposed to be exhibited by England in the more recent explanations on that matter since the arrest and trial of McLeod, seems to rest on a very sandy foundation.

[In voting on the separate articles of the treaty, Mr. W. voted against those in respect to the engagements to furnish a force of eighty

guns towards suppressing the slave-trade. This arose, not from an unwillingness to do every thing proper for abolishing that trade with alacrity and efficiency; but from an aversion to enter into an entangling alliance with any nation for any object; and from a reluctance to seem compelled by England, or bound to her, to do as to other countries what she had no right to demand and enforce. The attitude appeared on our part one of inferiority and submission, or of subjection. A sovereign nation ought to do what is just and honorable, as to the world at large, or as to the general interests of humanity, without the intervention or guardianship of any other nation. Again: the quantity of force to be employed was too large, too expensive, and unnecessary, unless it was employed by detachments occasionally from our squadrons at Brazil, the Mediterranean, and the West Indies. Then, and then only, could the health of the officers and men be preserved, and a great burden in our finances averted, which England bore to protect her African colonies as well as to suppress the slave-trade. We had no such colonies belonging to our Government; and for this, and other reasons, should not be subjected to any thing like equal expenses in relation to this matter.]

After the Senate had gone through with the different articles of the treaty, and were ready to act on the question of its final ratification, Mr. W. said he wished to submit a motion.

He observed that the inclination of his mind was to vote for the ratification, though he disliked much both branches of the treaty. The engagement, by any stipulation made to a foreign power, to do any thing in suppressing the slave-trade, which it was our duty to do of our own accord, and without the surveillance or admonition of others, looked derogatory to us. He had an invincible repugnance to that kind of assumption by one nation, and the acquiescence in it by another. But he passed by that, to come to the north-eastern boundary, concerning which he wished to trouble the Senate with a single motion. It was made with a view to show—what he believed to be true—that the treaty in that particular was not what the country had a right to expect; and, therefore, that it would not have been ratified in that particular, had not Maine and Massachusetts—the parties specially interested—agreed to the line adopted. This, at least, was his own opinion. But as their commissioners had agreed to the new line, he, for one, should waive further objections. His motion was, therefore, to recommit the treaty with instructions to report the two following resolutions to precede the resolve for ratification:

1. *Resolved*, That the provisions in this treaty, relating to the North-eastern boundary, are not, in the opinion of the Senate, so favorable to the United States as they had a right to expect on the facts of the case.

2. *Resolved further*, That the Senate, though

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anxious to adjust all controversies with foreign powers, would not feel justified in advising a ratification of those provisions, had not Maine and Massachusetts, the States interested in the disputed territory, given their assent, by commissioners, to the particular boundary adopted in those provisions, [instead of conferring general authority on the Federal Government to agree to such new conventional line as it might deem just.]

[Mr. TALLMADGE moved to lay the proposition of Mr. W. on the table; but there being doubts whether this might not carry the treaty with it, Mr. T. withdrew it.

Mr. KING then suggested that the resolutions be moved as an amendment or addition to the resolve for ratification, so as to save a recommendation.]

Mr. WOODBURY replied, that the President of the Senate had doubts whether such a course would be in order, or he would acquiesce in it with pleasure.

[Some Senators called for a division of the question as to each resolution separately; being willing to vote for one, but not the other. Some expressed themselves embarrassed how to vote, as they approved one, if not both of the resolutions; but doubted whether it was expedient to make them a part of the record in the ratification, and requested Mr. W., on that account, to oblige them by withdrawing the motion.]

Mr. WOODBURY stated that his object in offering the motion and resolution was to show permanently, and in the briefest manner possible, his general views and grounds of justification in ratifying the treaty. As he had accomplished that object with the Senate, so far as regarded himself, he would not, for the purpose of placing the views of all on the journals as to these points, press other gentlemen to vote on them which was embarrassing, and might lead to more debate and delay. He would, therefore, consent to what was asked, and withdraw the motion.

Mr. WILLIAMS addressed the Senate as follows:

Mr. PRESIDENT: I can truly say that "this is not the entertainment to which my State was invited." Soon after the arrival in this country of the special minister from England, the Governor of Maine was notified of that fact, and informed that this minister was charged with full powers from his sovereign to negotiate and settle the different matters in discussion between the two Governments; and had officially announced to this Government that, in regard to the boundary question, he had authority to treat for a conventional line, or line by agreement, on such terms and conditions, and with such mutual considerations and equivalents, as might be thought just and equitable: that he was ready to enter upon a negotiation for such conventional line, as soon as this Government should say it was authorized and ready, on its part, to commence such negotiation. And a strong appeal was made by this Government to

the Governor of Maine to convene the Legislature, in order that authority might be communicated to this Government to settle the controversy, by agreeing upon a new line of boundary. It was known that Maine had heretofore declined to give her assent to a conventional line, and insisted upon the line as described in the treaty of 1788; and, to induce her to yield her assent, it was announced, in the letter of the Secretary of State to the Governor of Maine, that the President felt it to be his duty, unless some new course should be proposed, to cause the negotiation (for another arbitration) to be resumed, and pressed to its conclusion.

The Governor of Maine did not hesitate, upon such an invitation, and upon such announcements, to convene the Legislature, in a busy season of the year, and at great expense to the State; and to submit to its serious consideration the communication made to him from this Government.

That Legislature—"declaring its solemn conviction that the boundary of Maine, on its northern and north-eastern frontiers, as designated in the treaty of 1788, can be laid down and fixed according to the terms of that treaty; and that such line embraces all the territory over which Maine claims property, sovereignty, and jurisdiction; and that the Executive and Congress of the United States had recognized the validity of that claim, in its full extent"—was yet willing to regard the recommendation and request of the President with all the respect due to the high source from which they came; and to look carefully at the suggestions made by him, as the head of the Government of the Union, upon a subject so interesting to Maine, as well as to her sister States of the Confederacy. Thus, looking at the communication from this Government to the Governor of Maine, it was seen that, "without the concurrence of the two States of Massachusetts and Maine, (whose rights are more immediately concerned—both having an interest in the soil, and one of them in the jurisdiction and government,) the duty of the General Government will be to adopt no new course; but, in compliance with treaty stipulations, and in furtherance of what has already been done, to hasten the pending negotiations as fast as possible;" that "the President thinks it a highly desirable object to prevent the delays necessarily incident to any settlement of the question by these means," (negotiation and arbitration;) that "it had been found that the exploration and examination of the several lines constitute a work of three years;" that "the existing commission for making such exploration, under the authority of the United States, has been occupied two summers; and a very considerable portion of the work remains to be done;" that "if a joint commission should be appointed, and go through the same work, and the commissioners should disagree, (as is very possible,) and an arbitration on that account become indispen-



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sable, the arbitrators might find it necessary to make an exploration and survey themselves, or cause the same to be done by others of their own appointment;" that "if to these causes, operating to postpone the final decision, be added the time necessary to appoint arbitrators, and for their preparation to leave Europe for the service, and the various retarding incidents always attending such operations, seven or eight years constitute, perhaps, the shortest period within which we can look for a final result;" that, "in the mean time, great expenses have been incurred, and further expenses cannot be avoided;" that "it is well known that the controversy has brought heavy charges upon Maine herself, to the remuneration or proper settlement of which she cannot be expected to be indifferent;" that "the exploration by the Government of the United States has already cost one hundred thousand dollars; and the charge of another summer's work is in prospect;" that "these facts may be sufficient to form a probable estimate of the whole expense likely to be incurred before the controversy can be settled by arbitration; and our experience admonishes us that another arbitration might fail;" that "the opinion of this Government upon the justice and validity of the American claim has been expressed so many times, that a repetition of that opinion is not necessary;" that "the subject is a subject in dispute;" that "the Government has agreed to make it a subject of reference and arbitration; and it must fulfil that agreement, unless another mode for settling the controversy should be resorted to, with a hope of speedier decision;" that "the President proposes that the Governments of Maine and Massachusetts should severally appoint commissioners empowered to confer with the authorities of this Government upon a conventional line, or line by agreement, with its terms, considerations, and equivalents, with an understanding that no such line be agreed upon without the assent of such commissioners;" that "this mode of proceeding, or some other which shall express assent *beforehand*, seems indispensable, if any negotiation for a conventional line is to be had; since, if happily a treaty should be the result of a negotiation, it can only be submitted to the Senate of the United States for ratification," and that "these considerations, in addition to the importance of the subject, and a firm conviction in the mind of the President that the interests of both countries, as well as the interests of the two States more immediately concerned, requires a prompt effort to bring this dispute to an end, constrain him to express an earnest hope that your Excellency will convene the Legislature of Maine, and submit the subject to its grave and candid deliberation."

It cannot be unknown to the Senate and to the country, that Maine, ever since she became a State, has insisted upon her absolute and perfect right to all the territory claimed by her; and that such is her right, has been ad-

mitted and proclaimed by all departments of the General Government. Maine has uniformly protested against her right being brought into jeopardy by any submission of it to arbitration; and the protest of the lamented Governor Lincoln, now in the archives of the Department of State, and published by order of Congress, prior to the submission to the King of the Netherlands, will long be cherished by the citizens of Maine as a noble and masterly effort of a patriot and statesman to arrest the downward course which diplomacy and treaties had given to our once certain and undisputed title, and should have prevented the submission of the territorial rights of a sovereign State to the arbitrament of any foreign power. But, unfortunately for Maine, and I think for the nation, the reference was made; and we all know the result of it—precisely what was foretold; the arbiter split the difference, recommending a line which he thought more convenient, and giving to Great Britain that portion of the territory claimed by Maine which was necessary to the direct communication between the British provinces of Canada and New Brunswick. That award or recommendation was not ratified by this Government; and further efforts have been made on our part to obtain a settlement of the line, according to the treaty of 1788; but the British Government would not treat further upon that basis, unless our Government would first agree to certain preliminaries, which would weaken, if not destroy, our claim. And now, ten years after the award of the King of the Netherlands was rejected, Maine is told by this General Government, to which she has a right to look for the protection and preservation of her rights, and which is bound by the constitution to defend her in the enjoyment of her whole territory, that, unless she will authorize a conventional line, her rights must again be subjected to the judgment and final disposition and arbitrament of *foreigners*!—that seven or eight years is the least time in which we may expect a decision; and then it may fail, as did the former attempt to settle the question by arbitration!!

In this condition of things it was that the President announced to the Governor of Maine the arrival at the seat of Government of a minister plenipotentiary and special, with full powers from his sovereign to negotiate and settle all matters in discussion between the two Governments, and that that minister had announced that he was authorized to treat for a conventional line, or line by agreement, on such terms and conditions, and with such mutual considerations and equivalents, as may be thought just and reasonable.

The Legislature was assembled, and the President's views, as contained in the letter of the Secretary of State, were submitted to it; and the result was the following, among other preambles and resolutions, viz:

"Whereas the Government of the United States, not possessing the constitutional power to conclude



any such negotiation without the assent of Maine, has invited the Government of this State to co-operate to a certain extent and in a certain form, in an endeavor to terminate a controversy of so long duration. Now, considering the premises, and believing that the people of the United States, after having already manifested a forbearance honorable to their character, under long-continued violations of their rights by a foreign nation; and though not disposed to yield to unfounded pretensions, are still willing, in regard to the proposal now made by the General Government, to give additional evidence to their fellow-citizens throughout the United States of their desire to preserve the peace of this Union, by taking measures to discuss and conclude, if possible, the subject in controversy in a manner that will secure the honor and interest of the State, this Legislature adopts the following resolutions—with the understanding, however, that, in the event of a failure of such endeavor toward an arrangement, no proceedings thereunder shall be so construed as to prejudice in any manner the rights of the State as they have been herein asserted to exist.

*“Resolved, That there shall be chosen, by ballot, in convention of both branches of the Legislature, four persons, who are hereby appointed commissioners on the part of this State, to repair to the seat of Government of the United States, and to confer with the authorities of that Government touching a conventional line, or line by agreement, between the State of Maine and the British provinces, having regard to the line designated by the treaty of 1788, as uniformly claimed by this State, and to the declarations and views expressed in the foregoing preamble; and to give the assent of this State to any such conventional line, with such terms, conditions, considerations, and equivalents, as they shall deem consistent with the honor and interests of the State: with the understanding that no such line be agreed upon without the unanimous assent of such commissioners.”*

*“Resolved, That this State cannot regard the relinquishment by the British Government of any claim heretofore advanced by it to territory included within the limits of the line of this State as designated by the treaty of 1788, and uniformly claimed by Maine, as a consideration or equivalent within the meaning of these resolutions.”*

The commissioners, thus appointed and thus authorized, came here in the fond hope of aiding the General Government in settling the long-pending and irritating question of the North-eastern boundary, in a manner honorable to both nations, consistent with the rights of Maine, and promoting the convenience of the citizens and subjects of both countries. And how were these fond hopes blasted! The first official communication in reference to our boundary is that of Lord Ashburton, of 21st June, wherein he shadows forth the line of boundary and equivalents which he came all the way from England, as the special minister of her Majesty, to offer to us “a line by agreement, on such terms and conditions, and with such mutual considerations and equivalents, as may be thought just and reasonable.” And what is it? To understand what it is, we must take the answer of the commissioners of Maine, of 29th June, in connection with his Lordship's

letter; and it will be seen that this is the amount of it:—the river St. John, from the place where the due-north line from the monument at the source of the St. Croix strikes it, to some one of its sources, (meaning the source near the head waters of the Penobscot and Kennebec,) with a strip on the south side of the St. John, to include the Madawaska settlement, and to extend from the Aroostook to Fish River, shall be the boundary; and that all lumber and produce of the forests of the tributary waters of the St. John shall be received freely, without duty, and dealt with in every respect like the same articles in the province of New Brunswick, is the equivalent!! In other words, his Lordship proposes to take from Maine about *five millions* of acres of her territory, and to compensate her therefor by allowing the timber of the forests of the tributary waters of the St. John to be received freely and without duty at the city of St. John's—their market—and dealt with in every respect like their produce; thereby securing a trade quite as important and beneficial to their provinces as to Maine! Mr. President, I was glad to see that this proposition, so unjust in itself, and so insulting to the people of Maine, was promptly rejected by our commissioners; and my regret is, that they did not content themselves with simply announcing that fact. I feel confident that they would have been justified in so doing, not only by the Legislature and people of Maine, but by the nation. More especially so, when it is disclosed in that same communication of June 29th “that they have been assured that Lord Ashburton is restrained by his instructions from yielding the island of Grand Menan, or any other of the islands in Passamaquoddy Bay, or even any portion of the narrow strip of territory which lies between the due-north line from the source of the St. Croix and the St. John's River, above Eel River, (so called,) as an equivalent for any portion of the territory claimed by Maine as within her boundaries!” Restrained by his instructions! Why, sir, was not the Governor of Maine assured by the President that Lord Ashburton, a minister plenipotentiary and special, had arrived, charged with full powers from his sovereign to negotiate and settle all matters in controversy? And that he (Lord Ashburton) had officially announced to this Government, that, in regard to the boundary question, he had authority to treat for a conventional line, with such mutual considerations and equivalents as might be thought just and equitable? Further, sir, is it not true, as has been stated by many, that the Legislature of Maine were restrained from limiting the powers of their commissioners, by representations, from here, that Lord Ashburton, having full powers, might object to treating at all with commissioners not possessing equally full powers?

If the commissioners on the part of Maine, upon learning the boundary and equivalents proposed by Lord Ashburton—and more espe-

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cially upon finding that he was restrained by instructions—had contented themselves with rejecting the proposition of Lord Ashburton, (as they very properly did,) we would not have had such a treaty as that now under consideration to act upon. Lord Ashburton must have been *relieved* from the restraint imposed upon him by instructions, or have suffered the negotiation to terminate upon his proposition; which the nation would applaud the commissioners of Maine for rejecting. But it was not so. The commissioners were unwilling to forego any reasonable chance of adjusting a controversy so long pending, and so vexatious to the people of Maine; they knew that the General Government, the State Governments, the nation itself, were all desirous that the question should be settled; and, if not settled, through any fault or obstinacy on their part, that Maine would stand worse than ever upon this all interesting question, at home and abroad; hence their counter proposition to Lord Ashburton, more liberal, and yielding more for peace and good neighborhood than could have been anticipated by the people or by the Legislature of Maine: that was rejected; and there the subject would have rested, but for the renewed efforts by the General Government itself, whereby the line and equivalents mentioned in the treaty now under consideration, were presented to the commissioners with the following remarks:

"The line suggested, with the compensations and equivalents which have been stated, is now submitted for your consideration. That it is all which might have been hoped for, looking to the strength of the American claim, can hardly be said. But, as the settlement of a controversy of such duration is a matter of high importance; as equivalents of undoubted value are offered; as longer postponement and delay would lead to further inconvenience, and to the incurring of further expenses; and as no better occasion—or, perhaps, any other occasion—for settling the boundary by agreement, or on the principle of equivalents, is ever likely to present itself, the Government of the United States hopes that the commissioners of the two States will find it to be consistent with their duty to assent to the line proposed, and to the terms and conditions attending the proposition.

"The President has felt the deepest anxiety for the amicable settlement of the question, in a manner honorable to the country, and such as should preserve the rights and interests of the States concerned. From the moment of the announcement of Lord Ashburton's mission, he has sedulously endeavored to pursue a course the most respectful towards the States, and the most useful to their interests, as well as most becoming to the dignity and character of the Government. He will be happy if the result shall be such as shall satisfy Maine and Massachusetts, as well as the rest of the country. With these sentiments on the part of the President, and with the conviction that no more advantageous arrangement can be made, the subject is now referred to the grave deliberation of the commissioners."

Ah! no better occasion, and perhaps any other occasion for settling the boundary by

agreement is ever likely to present itself, and with the conviction that no more advantageous arrangement can be made, the subject is referred to the grave deliberation of the commissioners. By whom? By the President and that Government which is bound by the constitution to protect Maine in all her rights, and without whose protection it is vain for any State to contend with a foreign Government, however just and well founded be her claim. Thus abandoned and thus admonished by the only power to which Maine could look for the maintenance and establishment of her just rights, it is said that she has assented to the line; and hence, that we are called upon merely to ratify and confirm what has been agreed upon by the parties immediately interested in the controversy. Not exactly so. Massachusetts, owning a moiety of the acres surrendered, is satisfied with the price to be paid for those acres; but the commissioners of Maine, now abandoned by her co-proprietor of the soil, and by the General Government, which is bound to protect her rights, are left to the grave consideration of the terms proposed by our own Government, under the assurance that no better, and, perhaps, no other occasion for settling the boundary by agreement is ever likely to present itself; and with the conviction that no more advantageous arrangement can be made.

[The letter of the Commissioners of July 22 was here read.]

This is the assent (if assent it may be called) which is to authorize and induce the Senate to ratify the treaty. What is it? A clear, strong, and convincing argument against submitting to the terms proposed; and concluding that, if the deliberate conviction of her sister States shall pronounce the proposed boundary and equivalents as honorable and expedient, even if that judgment shall lead to a surrender of a portion of the birthright of the people of Maine, the commissioners have determined to overcome their objections to the proposal, so far as to say that if, upon mature consideration, the Senate of the United States shall advise and consent to the ratification of the treaty upon those terms and conditions, they give the assent of Maine thereto. Now, sir, I am not well pleased with this mode of doing business. I would have preferred that our commissioners had agreed or disagreed to the line and terms proposed. The Legislature intrusted them with that power; and we have no reason to suppose that the Legislature would have authorized them to refer to the Senate of the United States the power to make a new line of boundary and to fix the equivalents. We know the Legislature did not so authorize them; but, on the contrary, required the *unanimous* consent of *all* the commissioners to any line which should be agreed upon; and expressly declared that it could not regard the *relinquishment* by the British Government of any claim heretofore advanced by it to any territory within the

limits of Maine according to the treaty of 1788, as uniformly claimed by Maine, as a consideration or equivalent.

How, then, stands the question of assent on the part of Maine? If the Senate, upon mature consideration, shall advise and consent to the ratification of the treaty upon the terms and conditions therein contained;—in other words, if the Senate shall pronounce it honorable and expedient that Maine shall surrender a portion of her birthright upon the terms and conditions named—then, and *then only*, you have the assent of Maine to the sacrifice, for the public good. For one, I cannot do it. My own convictions of the perfect right of Maine to all the disputed territory, forbid it. I would go far, very far, to compromise this dispute upon honorable terms; and I would not be particular as to the value of equivalents. But I hold that Great Britain has contiguous territory, convenient to us, which she might and ought to give in exchange for the territory belonging to us, which she so much needs, and ought to have, for a just equivalent. This treaty does not accomplish, fairly, either object—it gives to Great Britain more than is necessary, and withholds from Maine what she ought to acquire.

But, Mr. President, I am not insensible that this question of our North-eastern boundary has been suffered, most unnecessarily, to be brought into dispute and controversy. By the treaty of 1788, and the subsequent determination of what river was intended as the St. Croix, our line of boundary was plain, practicable, and perfect; it was identical with the established lines of the British provinces of Canada and Nova Scotia—fixed and determined by the proclamation of 1763, and by an act of Parliament in 1774. On a former occasion I had the honor to submit to the Senate my views upon this question; others did the same; and I will now only refer to the able exposition and vindication of the right of Maine to the whole of the territory claimed by her, contained in the report of the Committee on Foreign Relations, and to one of the resolutions adopted unanimously by the Senate on that occasion, in the following words:

*“Resolved, That after careful examination and deliberate consideration of the whole controversy between the United States and Great Britain, relating to the North-eastern boundary of the former, the Senate does not entertain a doubt of the entire practicability of running and marking that boundary in strict conformity with the stipulations of the definitive treaty of peace of 1788; and it entertains a perfect conviction of the justice and validity of the title of the United States to the full extent of all the territory in dispute between the two powers.”*

My regret is, that Congress did not then authorize and direct the running and marking that line according to the terms of the treaty of 1788, as proposed by the bill which I then presented. If that had then been done, we

would have escaped the expense and hazard of the Aroostook war, the disgrace of having a portion of our territory seized and occupied by the military power of Great Britain, and the unwelcome task of deciding upon the present treaty—which sanctions the unjust pretensions of the British Government to a portion of the fruits of our glorious struggle for independence.

I will not tax the patience of the Senate with a recapitulation of the merits of our claim to the whole of the disputed territory. Suffice it to say, that the treaty which asserts our independence as a nation, gives it to us; and that the nation recognizes it. Still, it has been suffered to be brought into controversy, and is now disputed by a great and powerful nation. Unfortunately for us, at the treaty of Ghent, in 1814, a request on the part of the British negotiators to *modify* or *vary* the line described in the treaty of 1788, so as to give to Great Britain a convenient and direct communication between the province of Canada and New Brunswick, was suffered to ripen into an article of that treaty, which provided for the running and marking that line; and, in case the commissioners to be appointed to that service should disagree, they were to report the grounds of such disagreement to their respective Governments; and thereupon the question should be submitted to an arbiter, to determine upon the points of disagreement. A very simple and innocent article in appearance, but a most fatal one in its consequences! From this sprang the submission to the King of the Netherlands, his award, and its rejection—subsequent attempts at negotiation and the treaty now under consideration; and, if this treaty be rejected, another reference to arbitrators, to be selected by *foreign powers*, is to follow.

Thus a title, clear and perfect by the treaty of 1788, has been suffered, by diplomacies and treaties, to be brought into doubt and controversy, and has been agreed to be made the subject of arbitration! This is the *embarrassment* which has stood, and yet remains, in the way of all our efforts to obtain possession of our entire territory; to expel a foreign power from its military possession of part of it; to assert and maintain the rights and honor of the nation; and is now held up to us as the only alternative, if we reject this treaty. What is to be done, under such circumstances, I admit, is a question of difficulty. If there be no way of escaping the obligation of again submitting the question to a foreign arbiter, the result of the former submission should admonish us to avoid the repetition of that mode of obtaining our just rights; and the present arrangement may be better than to hazard the loss, by another reference, of the whole disputed territory. In common with my constituents, I deprecate another reference to foreigners, or arbitrators appointed by foreign powers, and protest against it. We have already fulfilled the stipulations of the treaty of Ghent, by referring the

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question to an arbiter. It failed to settle the controversy. The British Government have insisted that another reference would be unavailing. I am willing to take them at their word; and would submit to the Senate whether, under all the circumstances of the case, the honor and duty of the nation will not be better maintained by falling back upon our original clear and certain right under the treaty of 1783, than by ratifying the present treaty, or sanctioning another reference, as indicated by the President's declaration to the Governor of Maine.

I cannot agree to the ratification of the present treaty. It is unjust to Maine, and, in my judgment, dishonorable to the nation. I do not desire another arbitration, which may be more ruinous to Maine than the present arrangement. I have no confidence in further negotiation. What we have had, has greatly weakened our once perfect title; and I see no other way of getting our right as a nation, and performing our high obligation to one of the States of the Union, than by taking possession of what belongs to us, and holding it. In such a course, we will have right and justice on our side. If others interfere with us, it must be in their own wrong. With these views, I send to the Chair the following resolution; and ask the yeas and nays upon its adoption:

*Resolved,* That the treaty and documents now under consideration, be recommitted to the Committee on Foreign Relations, with instructions to report a resolution directing the President of the United States to take immediate possession of the disputed territory, and to report such contingent measures as, in their opinion, may be necessary to maintain the just right of the nation.

Mr. CALHOUN said that his object in rising was not to advocate or oppose the treaty, but simply to state the reasons that would govern him in voting for its ratification. The question, according to his conception, was not whether it was all we could desire, or whether it was liable to this or that objection; but whether it was such a one that, under all the circumstances of the case, it would be most advisable to adopt or reject. Thus regarded, it was his intention to state fairly the reasons in favor of and against its ratification; and to assign to each its proper weight, beginning with the portion relating to the North-eastern boundary, the settlement of which was the immediate and prominent object of the negotiation.

He was one of those who had not the slightest doubt that the boundary for which the State of Maine contended was the true one, as established by the treaty of peace in 1783; and had accordingly so recorded his vote, after a deliberate investigation of the subject. But, although such was his opinion, he did not doubt at the time that the boundary could only be settled by a compromise line. We had

during the administration of Washington; and more recently and explicitly, by stipulating to submit it to the arbitration of a friendly power, by the treaty of Ghent. The doubt, thus admitted on our part to exist, had been greatly strengthened by the award of the King of Holland, who had been mutually selected as the arbiter under the treaty. So strong, indeed, was his (Mr. C.'s) impression that the dispute could only be settled by a compromise or conventional line, that he said to a friend in the then Cabinet, (when an appropriation was made a few years since for a special mission to be sent to England on the subject of the boundary, and his name, among others, was mentioned for the place,) that the question could only be settled by a compromise; and for that purpose, some distinguished citizen of the section ought to be selected; and neither he, nor any other Southern man, ought to be thought of. With these previous impressions, he was prepared, when the negotiation opened, to expect, if it succeeded in adjusting the difficulty, it would be (as it has been) on a compromise line. Notwithstanding, when it was first announced that the line agreed on included a considerable portion of the territory lying to the west of the line awarded by the King of Holland, he was incredulous, and expressed himself strongly against it. His first impression was, perhaps, the more strongly against it, from the fact that he had fixed on the river St. John, from the mouth of the Eel River, taking the St. Francis branch (the one selected by the King of Holland) as the mutual and proper compromise boundary, including in our limits all the portion of the disputed territory lying north of Eel River, and west and south of the St. John, above its junction; and all the other within that of Great Britain. On a little reflection, however, he resolved not to form his opinion of the merits or demerits of the treaty on rumor or imperfect information; but to wait until the whole subject was brought before the Senate officially, and then to make it up on full knowledge of all the facts and circumstances after deliberate and matured reflection; and that he had done with the utmost care and impartiality. What he now proposed was, to give the result, with the reasons on which it rests, and which would govern his vote on the ratification.

He still believed that the boundary which he had fixed in his own mind, was the natural and proper one; but, as that could not be obtained, the question for them to decide was, Are the objections to the boundary as actually agreed on, and the stipulations connected with it, such as ought to cause its rejection? In deciding it, it must be borne in mind that, as far as this portion of the boundary is concerned, it is a question belonging much more to the State of Maine than to the Union. It is, in truth, but the boundary of that State; and it makes a part of the boundary of the United States, only by being the exterior

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boundary of one of the States of our Federal Union. It is her sovereignty and soil that are in dispute, except the portion of the latter that still remains in Massachusetts; and it belongs in the first place to her, and to Massachusetts, as far as her right of soil is involved, to say what their rights and interests are; and what is required to be done. The rest of the Union is bound to defend them in their just claim; and to assent to what they may be willing to assent to in settling the claim in contest, if there should be nothing in it inconsistent with the interest, honor, or safety of the rest of the Union. It is so that the controversy has ever been regarded. It is well known that President Jackson would readily have agreed to the award of the King of Holland, had not Maine objected; and that to overcome her objection, he was prepared to recommend to Congress to give her, in order to get her consent, one million of acres of the public domain, worth, at the minimum prices, a million and a quarter of dollars. The case is now reversed. Maine and Massachusetts have both assented to the stipulations of the treaty, as far as the question of the boundary affects their peculiar interest, through commissioners vested with full powers to represent them; and the question for us to decide is, Shall we reject that to which they have assented? Shall the Government, after refusing to agree to the award of the King of Holland, because Maine objected, now reverse its course, and refuse to agree to that to which she and Massachusetts have both assented? There may, indeed, be reasons strong enough to authorize such a course; but they must be such as will go to prove that we cannot give our assent consistently with the interests, the honor, or the safety of the Union. That has not been done; and, he would add, if there be any such, he has not been able to detect them.

It has, indeed, been said that the assent of Maine was coerced. She certainly desired to obtain a more favorable boundary; but when the alternative was presented of another reference to arbitration she waived her objection, as far as she was individually concerned, rather than incur the risk, delay, uncertainty, and vexation of another submission of her claims to arbitration; and left it to the Senate, the constituted authority appointed for the purpose, to decide on the general merits of the treaty, as it relates to the whole Union. In so doing, she has, in his opinion, acted wisely and patriotically—wisely for herself, and patriotically in reference to the rest of the Union. She has not got, indeed, all she desired, and has even lost territory, if the treaty be compared with the award of the King of Holland; but, as an offset, that which she has lost is of little value, while that which she retains has been greatly increased in value by the stipulations contained in the treaty. The whole amount lost, is about half a million of acres. It lies along the eastern slope of the highlands

skirting the St. Lawrence to the east, and is acknowledged to be of little value for soil, timber, or any thing else—a sterile region, in a severe, inhospitable climate. Against that loss, she has acquired the right to navigate the river St. John; and that, not only to float down the timber on its banks, but all the productions of the extensive well-timbered, and, taken as a whole, not a sterile portion of the State that lies on her side of the bosom of that river and its tributaries. But that is not all. She also gains what is vastly more valuable—the right to ship them on the same terms as colonial productions of Great Britain and her colonial possessions. These great and important advantages will probably double the value of that extensive region, and make it one of the most populous and flourishing portions of the State. Estimated by a mere moneyed standard, these advantages are worth, he would suppose, all the rest of the territory claimed by Maine without them. If to this be added the sum of about \$200,000, to be paid her for the expense of defending the territory, and \$300,000 to her and Massachusetts in equal moieties, in consequence of their assent to the boundary, and the equivalents received, it must be apparent that Maine has not made a bad exchange in accepting the treaty, as compared with the award, as far as her separate interest is concerned. But be that as it may, she is the rightful judge of her own interests; and her assent is a sufficient ground for our assent, provided that to which she has assented does not involve too great a sacrifice on the part of the rest of the Union, nor their honor or safety. So far from that, as far as the rest of the Union is concerned, the sacrifice is small, and the gain great. They are under solemn constitutional obligations to defend Maine, as one of the members of the Union, against invasion; and to protect her territory, cost what it may, and at every hazard. The power, claiming what she contended to be hers, is one of the greatest, if not the greatest on earth. The dispute is of long standing, and of a character difficult to be adjusted; and, however clear the right of Maine may be regarded in the abstract, it has been made doubtful, in consequence of admissions, for which the Government of the Union is responsible. To terminate such a controversy, with the assent of the party immediately interested, by paying the small sum of half a million—of which a large part (say \$200,000) is unquestionably due to Maine, and would have to be paid to her without the treaty—is, indeed, a small sacrifice, a fortunate deliverance. President Jackson was willing to allow her, as has been stated, more than twice as much for her assent to the award; and, in doing so, he showed his wisdom, whatever might have been thought of it at the time. Those, at least, who opposed the treaty, will not charge him with being willing to sacrifice the interest and honor of the Union, in making the offer, and yet the charge

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which they make against this portion of the treaty does, by implication, subject what he was ready to do to a similar one.

But it is said that the territory which England would acquire beyond the boundary of the awarded line would greatly strengthen her frontier, and weaken ours; and would thereby endanger the safety of the country in that quarter. He did not profess to be deeply versed in military science; but, according to his conception, there was no foundation for the objection. It was, if he did not mistake, the very last point on our whole frontier, from the mouth of the St. Croix to the outlet of Lake Superior, on which an expedition would be organized on either side to attack the possessions of the other. In a military point of view, our loss is as nothing in that quarter; while in another, and a much more important quarter, our gain by the treaty is great, in the same point of view. He referred to that provision by which we acquire Rouse's Point at the northern extremity of Lake Champlain. It is among the most important military positions on the whole line of our eastern and northern frontier, whether it be regarded in reference to offensive or defensive operations. He well remembered the deep sensation caused among military men in consequence of its loss; and he would leave the question of loss or gain, in a military point of view, (taking the two together,) to their decision, without the least doubt what it would be.

But if it should be thought by any one that these considerations, as conclusive as they seemed to be, were not sufficient to justify the ratification of this portion of the treaty, there were others, which appeared to him to be perfectly conclusive. He referred to the condition in which we would be left, if the treaty should be rejected. He would ask—if, after having agreed at Ghent to refer the subject to arbitration, and, after having refused to agree to the award made under that reference, by an arbitrator of our own selection, we should now reject this treaty, negotiated by our own Secretary of State, under our own eyes, and which had previously received the assent of the States immediately interested—whether there would be the slightest prospect that another, equally favorable, would ever be obtained? On the contrary, would we not stand in a far worse condition than ever, in reference to our claim? Would it not, indeed, be almost certain that we should lose the whole of the basin of the St. John, and Great Britain gain all for which she ever contended, strengthened as she would be by the disclosures made during this discussion? He was far from asserting that the facts disclosed established the claim of Great Britain, or that the map exhibited is the one to which Franklin referred, in his note to the Count de Vergennes, the French Minister; but it cannot be doubted that the conformity of the line delineated on the map, with the one described in his note, would have the effect of

strengthening not a little the claims of Great Britain, in her own estimation, and that of the world. But the facts stated, and the map exhibited by the chairman of the Committee on Foreign Relations, (Mr. RIVZ,) are not the only or the strongest disclosures made during the discussion. The French map introduced by the Senator from Missouri, (Mr. BENTON,) from Mr. Jefferson's collection in the Congress' library, in order to rebut the inference from the former, turned out to be still more so. That was made in the village of Passy, in the year after the treaty of peace was negotiated, where Franklin (who was one of the negotiators) resided, and was dedicated to him; and that has the boundary line drawn in exact conformity to the other, and in the manner described in the note of Dr. Franklin—a line somewhat more adverse to us than that claimed by Great Britain. But, as striking as is this coincidence, he was far from regarding it as sufficient to establish the claim of Great Britain. It would, however, be in vain to deny that it was a corroborating circumstance, calculated to add no small weight to her claim.

It would be still further increased by the fact that France was our ally at the time, and, as such, must have been consulted, and kept constantly advised of all that occurred during the progress of the negotiation, including its final result. It would be idle to suppose that these disclosures would not weigh heavily against us in any future negotiation. They would, so much so—taken in connection with the adverse award of the King of Holland and this treaty, should it be rejected—as to render hopeless any future attempt to settle the question by negotiation or arbitration. No alternative would be left us, but to yield to the full extent of the British claim, or to put Maine in possession by force—and that, too, with the opinion and sympathy of the world against us and our cause. In his opinion, we would be bound to attempt it in justice to Maine, should we refuse to agree to what she has assented. So much for the boundary question, as far as Maine is concerned.

Having now shown (satisfactorily he hoped) that Maine had acted wisely for herself in assenting to the treaty, it remained to be considered whether we, the representatives of the Union on such questions, would not also do so in ratifying it—so far, at least, as the boundary question is involved. He would add nothing to what has already been said of the portion in which Maine was immediately interested. His remarks would be confined to the remaining portion of the boundary, extending from the north-western corner of that State to the Rocky Mountains.

Throughout this long extended line, every question has been settled to our satisfaction. Our right has been acknowledged to a territory of about one hundred thousand acres of land, in New Hampshire, which would have been lost by the award of the King of Holland.

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A long gore of about the same amount, lying in Vermont and New York, and which was lost under the treaty of Ghent, would be regained by this. It includes Rouse's Point, Sugar Island, lying in the water connection between the Lakes Huron and Superior, and heretofore in dispute, is acknowledged to be ours; it is large, and valuable for soil and position. So, also, is Isle Royale, near the northern shore of Lake Superior, acknowledged to be ours—a large island, and valuable for its fisheries. And also a large tract of country to the north and west of that lake, between Fond du Lac and the river St. Louis on one side, and Pigeon River on the other—containing four millions of acres. It is said to be sterile; but cannot well be more so than that acquired by Great Britain, lying west of the boundary awarded by the King of Holland. In addition, all the islands in the river St. Lawrence and the lakes, which were divided in running out the division line under previous treaties, are acquired by us under this; and all the channels and passages are opened to the common use of our citizens and the subjects of Great Britain.

Such are the provisions of the treaty in reference to this long line of boundary. Our gain—regarded in the most contracted point of view, as mere equivalents for the sum assumed to be paid by us to Maine and Massachusetts for their assent to the treaty—is vastly greater than what we have contracted to pay. Taking the whole boundary question together, and summing up the loss and gain of the whole, including what affects Maine and Massachusetts; and he could not doubt that, regarded merely as set-offs, our gain greatly exceeded our loss—vastly so compared to what it would have been under the award of the King of Holland, including the equivalent which our Government was willing to allow Maine for her assent. But it would be, indeed, to take a very contracted view to regard it in that light. It would be to overlook the vast importance of permanently establishing, between two such powers, a line of boundary of several thousand miles, abounding in disputed points of much difficulty and long standing. The treaty, he trusted, would do much to lay the foundation of a solid peace between the two countries—a thing so much to be desired.

It is certainly much to be regretted, after settling so large a portion of the boundary, that the part beyond the Rocky Mountains should remain unadjusted. Its settlement would have contributed much to strengthen the foundation of a durable peace. But would it be wise to reject the treaty, because all has not been done that could be desired? He placed a high value on our territory on the west of those mountains, and held our title to it to be clear; but he would regard it as an act of consummate folly, to stake our claim on a trial of strength at this time. This territory is now held by joint occupancy, under the treaty of Ghent;

which either party may terminate by giving to the other six months' notice. If we were to attempt to assert our exclusive right of occupancy at present, the certain loss of the territory must be the result; for the plain reason, that Great Britain could concentrate there a much larger force, naval and military, in a much shorter time, and at far less expense than we could. That will not be denied; but it will not always be the case. Our population is steadily—he might say rapidly—advancing across the continent to the borders of the Pacific Ocean. Judging from past experience, the tide of population will sweep across the Rocky Mountains, with resistless force, at no distant period; when what we claim will quietly fall into our hands, without expense or bloodshed. Time is acting for us. Wait patiently, and all we claim will be ours; but if we attempt to seize it by force, it will be sure to elude our grasp.

Having now stated his reasons for voting to ratify the articles in the treaty relating to the boundary, he would next proceed to assign those that would govern his vote on the two relating to the African slave-trade. And here he would premise, that there are several circumstances, which caused no small repugnance on his part to any stipulations whatever with Great Britain on the subject of those articles; and he would add, that he would have been gratified if they, and all other stipulations on the subject, could have been entirely omitted; but he must, at the same time, say he did not see how it was possible to avoid entering into some arrangement on the subject. To understand the difficulty, it will be necessary to advert to the course heretofore taken by our Government in reference to the subject, and the circumstances under which the negotiations that resulted in this treaty commenced.

Congress at an early day—as soon, in fact, as it could legislate on the subject under the constitution—passed laws enacting severe penalties against the African slave-trade. That was followed by the treaty of Ghent, which declared it to be irreconcilable with the principles of humanity and justice, and stipulated that both of the parties—the United States and Great Britain—should use their best endeavors to effect its abolition. Shortly after, an act of Congress was passed declaring it to be piracy; and a resolution was adopted by Congress, requesting the President to enter into arrangements with other powers for its suppression. Great Britain, actuated by the same feelings, succeeded in making treaties with the European maritime powers for its suppression; and, not long before the commencement of this negotiation, had entered into joint stipulations with the five great powers to back her on the question of search. She had thus acquired a general supervision of the trade along the African coast; so that vessels carrying the flag of every other country, except ours, were subject on that coast to the inspection of her



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cruisers, and to be captured, if suspected of being engaged in the slave-trade. In consequence, ours became almost the only flag used by those engaged in the trade, whether our own people or foreigners; although our laws inhibited the traffic under the severest penalties. In this state of things, Great Britain put forward her claim of the right of search, as indispensable to suppress a trade prohibited by the laws of the civilized world, and to the execution of the laws and treaties of the nations associated with her by mutual engagements for its suppression. At this stage, a correspondence took place between our late minister at the Court of St. James and Lord Palmerston on the subject, in which the latter openly and boldly claimed the right of search, and which was promptly and decidedly repelled on our side. We had long since taken our stand against it, and had resisted its abuse, as a belligerent right, at the mouth of the cannon. Neither honor nor policy on our part could tolerate its exercise in time of peace, in any form—whether in that of search, as claimed by Lord Palmerston; or the less offensive and unreasonable one of visitation, as proposed by his successor, Lord Aberdeen. And yet we were placed in such circumstances as to require that something should be done. It was in such a state of things that the negotiation commenced—and commenced, in part, in reference to this subject, which was tending rapidly to bring the two countries into collision. On our side, we were deeply committed against the traffic, both by legislation and treaty. The influence and efforts of the civilized world were directed against it—and that, too, under our lead at the commencement; and with such success as to compel vessels engaged in it to take shelter, almost exclusively, under the fraudulent use of our flag. To permit such a state of things to continue, could not but deeply impeach our honor, and turn the sympathy of the world against us. On the other side, Great Britain had acquired by treaties, the right of supervision, including that of search and capturing, over the trade on the coast of Africa, with the view to its subversion, from all the maritime powers except ourselves. Thus situated, he must say that he saw no alternative for us but the one adopted—to take the supervision of our own trade on that coast into our own hands, and to prevent, by our own cruisers, the fraudulent use of our flag. The only question, in the actual state of things, as it appeared to him, was, whether it should be done by a formal or informal arrangement? He would have preferred the latter; but the difference between them was not, in his opinion, such as would justify, on that account, the rejection of the treaty. They would, in substance, be the same, and have differed but little, probably, in the expense of execution. Either was better than the other alternatives—to do nothing; to leave things in the danger-

ous state they stood; or to yield to the right of search or visitation.

It is objected that the arrangement entered into is virtually an acknowledgment of the right of search. He did not so regard it. On the contrary, he considered it, under all the circumstances, as a surrender of that claim on the part of Great Britain; a conclusion, which a review of the whole transaction, in his opinion, would justify. Lord Palmerston, in the first place, claimed the unqualified right of search, in which it is understood he was backed by the five great powers. Lord Aberdeen, with more wisdom and moderation, explained it to mean the right of visitation simply; and finally, the negotiation closed without reference to either, simply with a stipulation between the parties to keep up for five years a squadron of not less than eighty guns on the coast of Africa, to enforce separately and respectively the laws and obligations of each of the countries for the suppression of the slave-trade. It is carefully worded, to make it mutual, but at the same time separate and independent; each looking to the execution of its own laws and obligations, and carefully excluding the supervision of either over the other, and thereby directly rebutting the object of search or visitation.

The other article, in reference to the same subject, stipulates that the parties will unite in all becoming representation and remonstrance, with any powers, within whose dominions markets are permitted for imported African slaves. If he were to permit his feelings to govern him exclusively, he would object to this more strongly than any other provision in the treaty;—not that he was opposed to the object or the policy of closing the market to imported negroes; on the contrary, he thought it both right and expedient in every view. Brazil and the Spanish colonies were the only markets, he believed, still remaining open, and to which this provision would apply. They were already abundantly supplied with slaves, and he had no doubt that sound policy on their part required that their markets should be finally and effectually closed. He would go farther, and say, that it was our interest that they should be. It would free us from the necessity of keeping cruisers on the African coast, to prevent the illegal and fraudulent use of our flag, or for any other purpose but to protect our commerce in that quarter—a thing of itself much to be desired. We would have a still stronger interest, if we were governed by selfish considerations. We are rivals in the production of several articles, and more especially in the greatest of all the agricultural staples—cotton. Next to our own country, Brazil possesses the greatest advantages for its production, and is already a large grower of the article; towards the production of which, the continuance of the market for imported slaves from Africa would contribute much. But he would not permit such considerations to in-



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fluence him in voting on the treaty. He had no objection to see Brazil develop her resources to the full; but he did believe that higher considerations, connected with her safety, and that of the Spanish colonies, made it their interest that their market should be closed against the traffic.

But it may be asked, why, with these impressions, should he have any objection to this provision of the treaty? It was, because he was adverse to interfering with other powers, when it could be avoided. It extends even to cases like the present, where there was a common interest in reference to the subject of advice or remonstrance; but it would be carrying his aversion to fastidiousness, were he to permit it to overrule his vote in the adjustment of questions of such magnitude as are involved on the present occasion.

But the treaty is opposed, not only for what it contains, but also for what it does not; and, among other objections of the kind, because it has no provision in reference to the case of the Creole, and other similar ones. He admitted that it is an objection; and that it was very desirable that the treaty should have guarded, by specific and efficient provisions, against the recurrence of such outrages on the rights of our citizens, and indignity to our honor and independence. If any one has a right to speak warmly on this subject, he was the individual; but he could not forget that the question for us to decide is, Shall we ratify or reject the treaty? It is not whether all has been done which it was desirable should be done, but whether we shall confirm or reject what has actually been done; not whether we have gained all we could desire, but whether we shall retain what we have gained. To decide that as it ought to be, it is our duty to weigh, calmly and fairly, the reasons for and against the ratification, and to decide in favor of the side which preponderates.

It does not follow that nothing has been done in relation to the cases under consideration, because the treaty contains no provisions in reference to them. The fact is otherwise. Much, very much, has been done;—in his opinion, little short, in its effect, of a positive stipulation by the treaty to guard against the recurrence of such cases hereafter. To understand how much has been done, and what has been gained by us, it is necessary to have a correct conception of the state of the case in reference to them, before the negotiation commenced, and since it terminated.

These cases are not of recent origin. The first of the kind was that of the brig *Comet*, which was stranded on the false keys of the Bahamas, as far back as 1830, with slaves on board. She was taken into Nassau, New Providence, by the wreckers, and the slaves liberated by the colonial authorities. The next was the *Encomium*, which occurred in 1834, and which, in all the material circumstances, was every way similar to that of the *Comet*.

The case of the *Enterprise* followed. It took place in 1835, and differed in no material circumstance from the others, as was acknowledged by the British Government, except that it occurred after the act of Parliament abolishing slavery in the colonies had gone into operation, and the others prior to that period.

After a long correspondence of nearly ten years, the British Government agreed to pay for the slaves on board of the two first, on the ground that they were liberated before the act abolishing slavery had gone into operation; but refused to pay for those belonging to the *Enterprise*, because they were liberated after it had. To justify this distinction, Lord Palmerston had to assume the ground, virtually, that the law of nations was opposed to slavery—an assumption that placed the property of a third of the Union without the pale of its protection. On that ground, he peremptorily refused compensation for the slaves on board the *Enterprise*. Our Executive, under this refusal, accepted the compensation for those on board the *Comet* and *Encomium*, and closed the correspondence, without even bringing the subject before Congress. With such perfect indifference was the whole affair treated, that, during the long period the negotiation was pending, the subject was never once mentioned, as far as he recollected, in any Executive message; while those of far less magnitude—the debt of a few millions due from France, and this very boundary question—were constantly brought before Congress, and had nearly involved the country in war with two of the leading powers of Europe. Those who are now so shocked that the boundary question should be settled, without a settlement also of this, stood by in silence, year after year, during this long period, not only without attempting to unite the settlement of this with that of the boundary, but without ever once naming or alluding to it as an item in the list of the dispute between the two powers. It was regarded as beneath notice. He rejoiced to witness the great change that has taken place in relation to it; and to find that those who were then silent and indifferent, now exhibit so much zeal and vehemence about it. He took credit to himself for having contributed to bring this change about. It was he who revived our claim when it lay dead and buried among the archives of the State Department—who called for the correspondence—who moved resolutions affirming the principles of the law of nations in reference to these cases, and repelling the presumptuous and insulting assumption on which it was denied by the British negotiator. Such was the force of truth, and so solid the foundation on which he rested our claim, that his resolution received the unanimous vote of this body; but he received no support—no, not a cheering word—from the quarter which now professes so much zeal on the subject. His utmost hope at the time was to keep alive our right, till some propitious moment should

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arrive to assert it successfully. In the mean time, the case of the *Oreole* occurred, which, as shocking and outrageous as it is, was but the legitimate consequence of the principle maintained by Lord Palmerston, and on which he closed the correspondence in the case of the *Enterprise*.

Such was the state of the facts when the negotiation commenced in reference to these cases; and it remains now to be shown in what state it has left them. In the first place, the broad principles of the law of nations, on which he placed our right in his resolutions, have been clearly stated and conclusively vindicated in the very able letter of the Secretary of State, which has strengthened our cause not a little, as well from its intrinsic merit as the quarter from which it comes. In the next place, we have an explicit recognition of the principles for which we contend, in the answer of Lord Ashburton, who expressly says that, "on the great general principles affecting this case," (the *Oreole*), "they do not differ;" and that is followed by "an engagement that instructions shall be given to the Governments of her Majesty's colonies on the southern borders of the United States, to execute their own laws with careful attention to the wishes of their Government to maintain good neighborhood; and that there shall be no officious interference with American vessels driven by accident or violence into their ports. The laws and duties of hospitality shall be executed." This pledge was accepted by our Executive, accompanied by the express declaration of the President, through the Secretary of State, that he places his reliance on those principles of public law which had been stated in the note of the Secretary of State. To all this it may be added, that strong assurances are given, by the British negotiator, of his belief that a final arrangement may be made of the subject by positive stipulations in London. Such is the state in which the negotiation has left the subject.

Here, again, he would repeat, that such stipulations in the treaty itself would have been preferable. But who can deny, when he compares the state of facts, as they stood before and since the close of this negotiation, that we have gained—largely gained—in reference to this important subject? Is there no difference, he would ask, between a stern and peremptory denial of our right, on the broad and insulting ground assumed by Lord Palmerston, and its explicit recognition by Lord Ashburton?—none in the pledge that instructions should be given to guard against the recurrence of such cases; to a positive denial that we had suffered wrong and insult, and had any right to complain?—none between a final closing of all negotiation, and a strong assurance of a final adjustment of the subject by satisfactory arrangement by treaty? And would it be wise or prudent on our part to reject what has been gained, be-

cause all has not been? As to himself, he must say, that, at the time he moved his resolutions, he little hoped, in the short space of two years, to obtain what has already been gained; and that he regarded the prospect of a final and satisfactory adjustment, at no distant day, of this subject, so vital in its principles to his constituents and the whole South, as far more probable than he then did this explicit recognition of the principles for which he contended. In the mean time, he felt assured the engagement given by the British negotiator would be fulfilled in good faith; and that the hazard of collision between the countries, and the disturbance of their peace and friendship, has passed away, as far as it depends on this dangerous subject. But if in this he should unfortunately be mistaken, we should stand on much more solid ground in defence of our rights, in consequence of what has been gained; as there would then be super-added broken faith to the violation of the laws of nations.

Having now said what he intended on the more important points, he would pass over, without dwelling on the provision of the treaty for delivering up to justice persons charged with certain crimes; the affair of the *Caroline*; and the correspondence in reference to impressment. The first is substantially the same as that contained in Jay's treaty on the same subject. On the next, he had nothing to add to what has already been said. As to the last, he did not doubt that the strong ground taken in the correspondence against the impressment of seamen on board of our merchant vessels, in time of war, would have a good effect. It will contribute to convince Great Britain that the practice cannot be renewed, in the event of another European war, without a certain and immediate conflict between the two countries.

I (said Mr. CALHOUN) have now stated my opinion fully and impartially on the treaty, with the connected subjects. On reviewing the whole, and weighing the reasons for and against its ratification, I cannot doubt that the former greatly preponderate. If we have not gained all that could be desired, we have gained much that is desirable; and, if all has not been settled, much has been—and that, not of little importance. It is not of little importance to have the North-eastern boundary settled—and that, too, with the consent of the States immediately interested: a subject which has been in dispute almost from the origin of the Government, and which had become more and more entangled, and adverse to our claim, on every attempt heretofore made to settle it. Nor is it of little importance to have the whole line of boundary between us and the British dominions, from the source of the St. Croix to the Rocky Mountains, settled—a line of more than three thousand miles, with many disputed points of long standing, the settlement of which had baffled all previous attempts. Nor is it of little importance to have adjusted the embar-

raments relating to the African slave-trade, by adopting the least objectionable of the alternatives. Nor to have the principles of the law of nations for which we contended, in reference to the Creole, and other cases of the kind, recognized by Great Britain; nor to have a solemn pledge against their recurrence, with a reasonable assurance of satisfactory stipulations by treaty. Nor is it of little importance to have, by the settlement of these inveterate and difficult questions, the relations of the two countries settled down in amity and peace—permanent amity and peace, as it may be hoped—in the place of that doubtful, unsettled condition, between peace and war, which has for so many years characterized it, and which is so hostile to the interest and prosperity of both countries.

Peace (said Mr. C.) is the first of our wants, in the present condition of our country. We wanted peace, to reform our own Government, and to relieve the country from its great embarrassments. Our Government is deeply disordered; its credit is impaired; its debts increasing; its expenditures extravagant and wasteful; its disbursements without efficient accountability; and its taxes (for duties are but taxes) enormous, unequal, and oppressive to the great producing classes of the country. Peace, settled and undisturbed, is indispensable to a thorough reform, and such a reform to the duration of the Government. But, so long as the relation between the two countries continues in a state of doubt between peace and war, all attempts at such reform will prove abortive. The first step in any such, to be successful, must be to reduce the expenditures to the legitimate and economical wants of the Government. Without that, there can be nothing worthy of the name; but in an unsettled state of the relations of the two countries, all attempts at reduction will be baffled by the cry of war, accompanied by insinuations against the patriotism of those who may be so hardy as to make them. Should the treaty be ratified, an end will be put to that, and no excuse or pretext be left to delay the great and indispensable work of reform. This may not be desirable to those who see, or fancy they see, benefits in high duties and wasteful expenditures; but, by the great producing and tax-paying portions of the community, it will be regarded as one of the greatest of blessings. These are not the only reasons for wanting peace. We want it, to enable the people and the States to extricate themselves from their embarrassments. They are both borne down by heavy debts, contracted in a period of fallacious prosperity, from which there is no other honest and honorable extrication but the payment of what is due. To enable both States and individuals to pay their debts, they must be left in full possession of all their means, with as little exactions or restrictions on their industry as possible on the part of this Government. To this, a settled state of peace, and

an open and free commerce, are indispensable. With these, and the increasing habits of economy and industry now everywhere pervading the country, the period of embarrassment will soon pass away, to be succeeded by one of permanent and healthy prosperity.

Peace is, indeed, our policy. A kind Providence has cast our lot on a portion of the globe sufficiently vast to satisfy the most grasping ambition, and abounding in resources beyond all others, which only require to be fully developed to make us the greatest and most prosperous people on earth. To the full development of the vast resources of our country, we have political institutions most happily constituted. Indeed, it would be difficult to imagine a system more so than our Federal Republic—a system of State and General Governments, so blended as to constitute one sublime whole; the latter having charge of the interests common to all, and the former those local and peculiar to each State. With a system so happily constituted, let a durable and firm peace be established, and this Government be confined rigidly to the few great objects for which it was instituted; leaving the States to contend in generous rivalry, to develop, by the arts of peace, their respective resources, and a scene of prosperity and happiness would follow, heretofore unequalled on the globe. I trust (said Mr. C.) that this treaty may prove the first step towards such a peace. Once established with Great Britain, it would not be difficult, with moderation and prudence, to establish permanent peace with the rest of the world, when our most sanguine hopes of prosperity may be realized.

Mr. BUCHANAN rose, and addressed the Senate as follows:

Mr. President: It is now manifest that the treaty under discussion is destined to be ratified by a large majority of the Senate. The news of this ratification will spread joy and gladness throughout the land. It will be hailed by the country as the pledge of a lasting peace between two great nations; and those who were instrumental either in its negotiation or ratification, will be esteemed public benefactors. Beyond all question, such will be the first impression upon the public mind. Amidst this general joy, it will be a subject of surprise and astonishment that some eight or ten Senators should have separated themselves from the mass, and voted against the ratification of this treaty. The first impulse of public feeling will be to condemn these Senators. Now, sir, as I shall be one of this small number, I rise to make my defence before the people of the country in advance, not doubting but that the justice, if not the generosity of the Senate, will remove the injunction of secrecy from our proceedings, and enable me to publish my remarks.

There is no Senator who has felt more anxious to vote in favor of this treaty than myself. I am conscious of all the happy effects upon the country which might result from unanimity

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in this body; and I may say, in all sincerity, that I have endeavored to agree with the majority. Nay, more—I was disposed to distrust my own judgment, believing that it might have been prejudiced by the zealous and persevering efforts which I had formerly made, both as chairman of the Committee on Foreign Relations, and as a Senator on this floor, to sustain the rights of Maine against what I believed to be the unjust pretensions of the British Government. I have, therefore, earnestly endeavored to keep my mind open to conviction until the last moment; but, after all, I cannot vote for this treaty without feeling that I had violated my duty to the country, and without forfeiting my own self-respect. In the emphatic language of the Senator from Maine, (Mr. WILLIAMS,) I believe it to be a treaty unjust to Maine, and dishonorable to the whole country; and thus believing, if it depended on my vote, it should be rejected without regard to consequences. These I would leave to that superintending Providence which has ever been our shield in the day of danger. Even if war should be the result, (which I do not by any means anticipate,) I would rely with perfect confidence upon the courage, patriotism, and energy of my countrymen, for the defence of their rights.

When the mission of Lord Ashburton was first announced, I hailed it as the olive branch of peace and friendship, presented by England to this country. The auspices were all favorable. I believed then, and I believe still, that she was sincere. Her revenue was insufficient for her annual expenditures; she had experienced reverses in the East, where she was waging two expensive, unjust, and bloody wars; a large portion of her own population was almost in a state of open rebellion, and she had signally failed in her darling policy of extorting from France a ratification of the quintuple treaty, which would have given her the right of searching all European vessels on the coast of Africa. Such was the condition of England when Lord Ashburton arrived in Washington, "having been charged with full powers to negotiate and settle all matters in discussion between the two countries." When I make this declaration, I employ the very language used by Mr. Webster himself, in the very first sentence of his diplomatic note, dated on the 17th June last. His Lordship's powers were not confined to the North-eastern boundary question, which is the only disputed question settled by the treaty; but they would have enabled him to determine all the vexed and dangerous questions which still remain open to disturb the harmony and threaten the peace of the two nations.

Not only did a crisis then exist in the affairs of England eminently calculated to predispose her to a fair and amicable adjustment of all the disputed questions, but the British Government well knew that these questions were of such a distinct and varied character, that some one of them had strongly enlisted the feelings of each por-

tion of our country; and, when combined, that they would unite the American people almost as one man in demanding justice. There was the North-eastern boundary question, which peculiarly interested the Eastern States, as did the North-western boundary the Western States, whilst the Creole question had deeply affected the sensibilities of the Southern and South-western portions of the Union. Redress for the Caroline outrage, and an abandonment of the right of search, were questions of national honor, in which every man with an American heart, throughout the broad extent of our country, felt the deepest interest. The varied wrongs of England had united us together in an adamant chain, no link of which ought ever to have been broken until these wrongs had all been redressed. I believe in my soul that the propitious moment has arrived for settling all these questions upon just and honorable principles. Feeling this to be the case, I declared, on the floor of the Senate, at the period of Lord Ashburton's arrival, that our motto ought to be—*All or none*. This I did, because I felt that all could be adjusted. I believe still that all might have been adjusted; although I knew it would be the policy of the British Government to obtain a cession of that portion of Maine necessary to consolidate her power in North America, and leave the other questions—particularly that of the Creole—for "a more convenient season." This Creole question, from peculiar causes, which I need not explain, was the weakest, except in point of justice, of all the questions in dispute; whilst the prejudices of the British people were most strongly enlisted against its fair and honorable adjustment. Lord Ashburton has succeeded in obtaining all that his Government most desired, and in postponing for future negotiation all which was most desirable for the American people. Until within the last few weeks, we had every reason to believe that all matters in dispute would be adjusted by the treaty. I appeal to Senators whether they have not heard, over and over again, throughout the negotiation, that the only obstacle in the way of settling all our difficulties was the obstinate adherence of the Maine commissioners to the line of the treaty of 1783. I often made inquiries concerning the Creole question, believing that its adjustment would be the most difficult; and was as often informed that there would be no difficulty in providing for the future, although Lord Ashburton might not be able to grant indemnity for the past. I believed that all things were in successful progress; and never have I been more astonished and disappointed than when I first learned that the Maine question alone had been settled by the treaty, and that all the rest of the disputed questions had merely been made the subjects of a diplomatic correspondence.

Had all the questions been adjusted between the two countries, a career of happiness and prosperity would have been opened to both, on which the imagination of the philanthropist

might love to dwell. Time might have soothed, or even obliterated, the memory of the successive wrongs and insults which we have suffered from England since she first acknowledged our independence; and we might have forgotten those unfriendly feelings towards her, which, unquestionably, now pervade the great body of the American people. Senators on this floor may speak of the two nations as the mother and the daughter, and may please their fancy by such epithets of mutual endearment; but, in the opinion of a large majority of our countrymen, England has ever acted as a harsh and severe stepmother towards this country. I had fondly hoped that this unnatural relationship would end with the termination of Lord Ashburton's mission; and, had all the questions been settled, I was prepared to yield much for the sake of such a happy consummation.

I shall now proceed to discuss each of the subjects separately, involved in the correspondence and the treaty. And, first, I shall refer to the question of impressment. The two last letters of the series relate to this subject. On the 8th of August, (the day before the termination of the special mission,) Mr. Webster addressed a letter to Lord Ashburton, which presents a clear and striking view of the arguments which have been heretofore urged against the impressment of American seamen; and suggests to the British Government the propriety of renouncing the practice hereafter. His Lordship replied to this letter on the next day, (the 9th of August;) and, with this letter, his mission terminated.

In this letter, I ask, does he abandon the odious claim of the British Government to impress seamen on board of American vessels? Does he yield to the unanswerable arguments presented by Mr. Webster? No, sir; no. On this subject, he is not merely non-committal. He comes up to the very point which has always been at issue between the two countries;—asserts the principle of the perpetual allegiance of all British-born subjects in the strongest terms; and justifies the practice of impressment in cases of necessity. Nay, more: he informs Mr. Webster that we ourselves would resort to the same practice, if our geographical position did not render it unnecessary.

I confess, sir, I did not anticipate that the subject of impressment would form any part of the negotiations between Mr. Webster and Lord Ashburton. This question ought never to have found a place in the correspondence, unless, from the preliminary conferences, it had been ascertained that England was prepared to renounce the practice forever. Its introduction has afforded Lord Ashburton the opportunity of insisting upon a claim to which we can never practically submit, without being disgraced and degraded among the nations of the earth. We declared war against Great Britain thirty years ago, to protect American seamen from impressment; and she, and all the world, ought to know that we shall declare war again, should

the practice ever be resumed. If the stars and the stripes which float over an American vessel upon the ocean cannot protect all those who sail beneath them from impressment, no matter to what land they may owe their birth, then we are no longer an independent nation. Whenever any British officer shall dare to violate the flag of our country upon the ocean, and shall seize and carry away any seamen from the deck of an American vessel, no matter what may be the pretence, (unless instant reparation shall be made by his Government for the outrage,) our only alternative will then be war or national dishonor. We are deeply, solemnly pledged before the world, to avenge such a wrong without a moment's unnecessary delay. Such an act would, in effect, be a declaration of war against us; and Great Britain knows it well. She claims the right of impressment, as a belligerent right only, and when she shall go to war with France, or any other nation, she will then count the cost to herself which may result from this practice. She may refrain, from the conviction that it would convert us from being a neutral, into her most deadly enemy. No, sir; no. This is not a question for holiday negotiation, but for war, inevitable war, should the occasion ever unfortunately arise. But Great Britain will have a care how she provokes such a conflict, in violation of every principle of national law, although she may refuse formally to renounce the practice. War must be the necessary result of impressment, or our national character must become a subject of scorn and contempt for all mankind.

I proceed next to the case of the *Caroline*. There was nothing easier in the world than to settle this question satisfactorily. The British Government had only to acknowledge that Captain Drew and his band of volunteer desperadoes were in the wrong when, under the auspices of Colonel McNab, they had invaded our territory, burnt the *Caroline*, and murdered an American citizen; and then do all they could to repair this wrong, by indemnifying the owner of the steamboat for his loss of property, and providing for the family of the murdered Durfee, if he have a family. To acknowledge the wrong, and repair the injury as far as he can, is the first dictate of every just and honorable man, at the moment he becomes convinced of his error. Such ought to be the conduct of every just and honorable nation. But has Great Britain pursued this course in the case of the *Caroline*? Has she either admitted the national wrong, or repaired it by making compensation to those who were its victims? Neither the one nor the other. We have been told, indeed, by the Senator from Virginia, (Mr. Rives,) that this old and haughty nation, proud in arms, has submitted to ask our pardon for the outrage; and he considers this a great triumph. But is this the fact? Let the letter of Lord Ashburton to Mr. Webster, of the 28th July, be carefully examined by any Senator, and he must arrive at a directly opposite con-

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clusion. I assert that this letter contains an able and elaborate justification of the attack on the *Caroline*, and a vindication of the British officers who planned and conducted it. How could it be otherwise? Has not Colonel McNab been knighted, and Captain Drew pensioned, for this gallant exploit against unarmed men, who vainly believed that the American flag upon American soil was a protection against British outrage? Have we not seen, within a few days, that a public dinner at which a noble Duke presided, has recently been given to Sir Allen McNab, in London, where he received such honors as will encourage him again to violate our territory, whenever interest or feeling shall again prompt to a similar outrage? I ask the Senator from Virginia to point to any portion of the letter where the conduct of McNab and Drew has been condemned; nay, more, I ask him to point to any portion of the letter where it has not been justified. It is very true that Lord Ashburton, whilst he earnestly maintains "that there were grounds of justification (for the *Caroline* outrage) as strong as were ever presented in such cases," declares "that no slight of the authority of the United States was ever intended;" and although this service was necessary, yet, as it involved a violation of our territory, he would deprecate its recurrence. In the very sentence to which the Senator from Virginia refers, in which his Lordship regrets "that some explanation and apology for this occurrence was not immediately made," he still continues to justify the capture and destruction of the *Caroline* on the plea of necessity. The whole substance of this letter may be summed up in a very few words, thus: Although the violation of your territory, and the destruction of the *Caroline*, were absolutely necessary and entirely justifiable, and as such have received the approbation of the British Government; yet I am extremely sorry that any such necessity existed, and hope it may not again occur. I also regret that such an explanation and apology for this occurrence as I have just made, had not been tendered to your Government immediately after the event. A man runs me through the body with a sword, and afterwards explains and apologizes to me, by assuring me that his act was both necessary and justifiable; but yet he is extremely sorry that any such necessity existed. This is Lord Ashburton's apology for the *Caroline* outrage.

After all that I have said, it would be in vain to ask whether Lord Ashburton has granted indemnity to the owner of the *Caroline*, or provided for the family of the murdered Durfee. It does not appear that Mr. Webster ever demanded any such indemnity, or even alluded to the subject. He may possibly have adverted to it in his private conferences with Lord Ashburton; but if he did—my life upon it—the answer was, that the attack on the *Caroline* was justifiable, and, therefore, not a subject of indemnity. You have thus permitted this steamboat, owned by an American citizen, whilst

under American colors, and moored in an American port, to be destroyed by the British authorities, without even asking them to indemnify the owner. Does not justice require that you should indemnify the citizen whom your own soil and your own flag could not protect, and for whom you asked no indemnity? I shall not, at present, attempt to answer this question. On the files of our executive documents, there is to be found a memorial from the citizens of Buffalo, presented in March, 1838, which places the claim of Mr. Wells, the American owner of the *Caroline*, in a very strong light; and as we have not even asked any satisfaction for him from the British Government, it will be a serious question whether we are not bound to indemnify him ourselves.

But Lord Ashburton, in this extraordinary letter, is not content with acting on the defensive. In the conclusion of it, he becomes the assailant. Referring to the case of McLeod, he complains that "individuals have been made personally liable for acts done under the avowed authority of their Government;" and he inquired whether the Government of the United States is now in a condition to surrender those engaged in such enterprises as the capture of the *Caroline*, without subjecting them to trial.

Mr. Webster replied to this letter on the 6th of August, and informs his Lordship that the President is satisfied, "and will make this subject, (the capture of the *Caroline*,) as a complaint of violation of territory, the topic of no further discussion between the two Governments." And thus ends the *Caroline* question.

But not so the McLeod question. Mr. Webster admits, as he had done in the beginning, that McLeod ought to have been surrendered, without trial, on the demand of the British Government. He graciously explains the reason why this could not be done, and casts the blame "upon a State court, and that not of the highest jurisdiction," which "was embarrassed, as it would appear, by technical difficulties." He says, however, that the Government of the United States holds itself not only fully disposed, but fully competent, to fulfil its acknowledged obligations to subjects of England, who may, hereafter, engage in such enterprises; and informs his Lordship that the attention of Congress "has been called to the subject, to say what further provision ought to be made to expedite proceedings in such cases."

I now come to the Creole question. And here we, who are opposed to the treaty, have been told that this is peculiarly a Southern question; and that, if the Senators from the South are satisfied with the manner in which it has been adjusted, we ought not to complain. Sir, this is not a mere Southern question, but it is a question which deeply affects the honor of the whole country. I might here repeat what I have said upon a former occasion—that all Christendom is leagued against the South upon this question of domestic slavery. They have no other allies to sustain their constitutional

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rights, except the Democracy of the North. I do not mean to insinuate that the Whig party of the North are generally abolitionists. Far from it. But this I will say, that Whig candidates most generally receive the support of the abolitionists; and, therefore, the Whigs, as a party, are careful not to give them offence. Far different is the conduct of the Democrats. In my own State, we inscribe upon our party banners, hostility to abolition. It is there one of the cardinal principles of the Democratic party; and many a hard battle have we fought to sustain this principle. Whilst the Democrats of the North are opposed to slavery in the abstract, they are ever ready to maintain the constitutional rights of the South against the fierce and fanatical spirit of abolition. I, therefore, claim the right of discussing the Creole question. It was my anxious desire and confident hope that this question, at least, might have been settled by the treaty. I firmly believe that the propitious moment for adjusting it on honorable terms has passed away forever. The British Government might have consented to accept the bitter with the sweet; and to have done us justice on the Creole question, for the sake of obtaining that portion of Maine which they so ardently desired. But we have not improved the golden opportunity; and now what are we told? Why, that a great advance has been made towards the settlement of this question by the correspondence before us.

And what is a diplomatic note? What statesman ever dreamed of adjusting an important question, well calculated to impair the harmony and destroy the peace of two great nations, by a diplomatic note? A treaty is the only mode known to the law of nations by which such questions can be settled. Now, sir, if the letter of Lord Ashburton, of the 6th August, had even contained every stipulation which we could desire in regard to the Creole question, to what would it amount? It might possibly bind the honor of the present British cabinet; but, after a change of ministry, would it bind their successors? No man will pretend it. A new ministry would say to us, Why did you not secure your claimed rights by treaty? We are not bound by a mere diplomatic note, written by Lord Ashburton in behalf of a former ministry. And more especially are we not bound by it, when that minister himself, in the very first sentence of the note on which you rely, disclaims all authority from his Government to enter into any formal stipulation on the subject; and in a subsequent part of it, refers "to great principles too deeply rooted in the consciences and sympathies of the British people," which might cause a disavowal of any engagement into which he might enter for the purpose of settling this question.

But, even if the engagement contained in this note of Lord Ashburton were solemnly inserted in the body of the treaty itself, it would be wholly ineffectual. It is contained in two sentences, which I shall read:

"In the mean time, (says his Lordship,) I can engage that instructions shall be given to the Governors of her Majesty's colonies on the southern borders of the United States, to execute their own laws with careful attention to the wish of their Government, and that there shall be no officious interference with American vessels driven by accident or by violence into those ports. The laws and duties of hospitality shall be executed, and those seem neither to require nor to justify any further inquisition into the state of persons or things on board of vessels so situated, than may be indispensable to enforce the observance of the municipal law of the colony, and the proper regulation of its harbors and waters."

Now, sir, when we consider the nature of our grievance, we shall perceive at once how wholly inadequate his Lordship's stipulation will be to afford a remedy. American citizens, in transporting their slaves by sea, from the Atlantic States to States on the Gulf of Mexico, and on the Mississippi, must pass through the Bahama channel. If their vessels are driven into any British port along this channel, by storm, or are carried there in consequence of mutiny and murder, the slaves, who can escape to the shore by any means whatever, are instantly free. Such is the law of England, which will most probably never be changed. But whilst the slaves remain on board of an American vessel, they are, in the contemplation of the law of nations, on American soil. Now, if his Lordship had stipulated that the British authorities should prevent the slaves on board of vessels driven into port by storm, or carried there by mutiny, from making their escape to the shore, there would have been some efficiency in the engagement. This would have been a stipulation to do a positive act, which would have retained and secured the slaves in the possession of their masters. But the engagements of Lord Ashburton are all merely negative. The British colonial governors are not themselves to be instrumental in releasing the slaves—they shall not officially interfere with American vessels driven by accident and by violence into those ports,—they shall not make any further inquisition into the state of persons or things on board of vessels thus situated, than may be necessary to enforce the municipal laws. All is negative, and is intended merely to prevent the British authorities themselves from becoming actors in violating our rights! The people of any of these colonies, without violating his Lordship's engagement, may interfere to produce the escape of the slaves from any such vessels. That they will hereafter act in this manner, there can be no doubt, judging from their past conduct.

On the 15th of April, 1840, we resolved, by a unanimous vote, that our ships on the high seas, in time of peace, were, according to the law of nations, under the exclusive jurisdiction of our country; and, further, that, when forced by stress of weather, or other unavoidable cause, into the ports of a friendly power, they, with



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their cargoes, "and persons on board, with their property, and all the rights belonging to their personal relations, as established by the laws of the State to which they belong, would be placed under the protection which the law of nations extends to the unfortunate under such circumstances." These propositions have been demonstrated by the Secretary of State. And yet, after our clear rights, under the law of nations, have been repeatedly outraged by the British authorities and people, all we have obtained for their security is a diplomatic note containing engagements which will have no practical effect whatever, and which may be recalled at pleasure by the British Government. So much for the case of the *Oreole*.

I now approach the treaty itself, and shall first discuss the eighth article. It stipulates that each of the contracting parties shall maintain on the coast of Africa a naval force not less than eighty guns, to enforce, separately, the laws of each country for the suppression of the slave-trade; "the said squadrons to be independent of each other, but the two Governments stipulating, nevertheless, to give such orders to their officers commanding their respective forces, as shall enable them to act most effectually in concert and co-operation, upon mutual consultation, as exigencies may arise, for the attainment of the true object of this article; copies of all such orders to be communicated by each Government to the other, respectively."

Now, sir, the first remark in regard to this most important article, which must strike every mind, is, that it has become a part of the treaty, without any correspondence whatever between the two plenipotentiaries in relation to the subject. We are left entirely in the dark as to the motives which influenced the negotiators in forming this article, except from the obscure hints which may be collected from the President's Message which accompanied the treaty. And here I would remark, that this correspondence throughout presents a singular spectacle, which, I trust, may never be exhibited again in any important negotiation with a foreign power. Every thing had been previously arranged in verbal conferences, without any note or memorandum of what had transpired at them, before the date of the letters communicated with the treaty; and these letters were evidently intended merely to present results in such a form as might best satisfy the people of both nations. The original pretensions on the one side or the other—the manner in which they were resisted—the means by which they were modified and received their present form—all, all are buried in oblivion, so far as this Government is concerned. The tracks of the negotiators were made upon the sand, and the returning tide has effaced them forever. Such is the case in relation to this Government; but not so, I shall venture to assert, in regard to England.

Now, sir, in common with all America, I abhor the slave-trade. Our duty both to God and

man requires that we should prevent it from being conducted under the American flag. For this purpose, we ought to send a naval force to the coast of Africa, whenever it may become necessary for its suppression. This course we have always hitherto pursued. But why should we yield up the exercise of our own free will, at the dictation of England? Why should we bind ourselves in bonds to her that we shall do our duty? The Father of his Country, while he advised us to cultivate peace and friendship with all nations, at the same time warned us against entangling alliances with any. We have hitherto acted upon this wise and salutary maxim; and the present is the first entangling alliance we have ever contracted with any nation, since the date of his solemn warning. Hereafter, whether it be convenient or inconvenient to us—whether it be necessary or not,—we have solemnly pledged ourselves to England, that, at all times, and under all circumstances, during the period of five years, we shall keep eighty guns afloat on the coast of Africa: and she, of all others, is the nation which will exact a strict performance of this pledge. There is no reciprocity, except in name, in this article of the treaty. The naval force of Great Britain is so large, that, without any engagement whatever, she would keep a greater number than eighty guns on the African coast. In the face of all these objections, and in this moment of our depressed finances, we agree to expend \$700,000 per annum, to enable England to present to Christendom this new trophy which she has won in the cause of universal emancipation. I take my estimate of the expense from the Senators from Missouri and New Hampshire, (Messrs. BEXTON and WOODBURY,) who state that the cost of each gun at sea (including ship-building and all) amounts to \$9,000.

But, sir, much as I dislike this article in the aspect in which it has already been presented, I dislike it still more when viewed in another light. To me, it appears, under all the circumstances, to be the price paid to the British Government for a relinquishment of its claim, during the continuance of the treaty, to the right of visiting and searching American vessels on the coast of Africa. On this subject we must grope our way in the dark—having no light to direct our steps, but what appears on the face of the article itself, and the intimations contained in the President's Message.

We have the declaration of the President, "that the treaty obligations subsisting between the two countries for the suppression of the African slave-trade, and the complaints made to this Government within the last three or four years, (many of them but too well founded,) of the visitation, seizure, and detention of American vessels on that coast, by British cruisers, could not but form a delicate and highly important part of the negotiations which have now been held." We thus learn, from the highest authority, that the right of visitation



and search on the African coast did form a delicate and highly important part of the negotiations. This was all conducted in private conferences; as nothing on the subject appears in the correspondence. Mr. Webster must, unquestionably, have complained to Lord Ashburton of the outrages committed upon our flag by British cruisers; and his Lordship most probably replied that these were necessary to suppress the slave-trade in American vessels. How was the question to be compromised? By a stipulation, on the part of the United States, that they would keep a sufficient force on the coast of Africa to visit and search their own vessels, thus rendering unnecessary their visitation and search by British cruisers. In this inference I am sustained by the language of the President. He says that "the examination or visitation of the merchant vessels of one nation, by the cruisers of another, for any purpose, except those known and acknowledged by the law of nations, under whatever restraints or regulations it may take place, may lead to dangerous results. It is far better, by other means, to supersede any supposed necessity, or any motive, for such examination or visit. Interference with a merchant vessel by an armed cruiser, is always a delicate proceeding, apt to touch the point of national honor, as well as to affect the interest of individuals. It has been thought, therefore, expedient, not only in accordance with the stipulations of the treaty of Ghent, but, at the same time, as removing all pretext on the part of others for violating the immunities of the American flag upon the seas, as they exist and are defined by the law of nations, to enter into the articles now submitted to the Senate." These articles, then, were entered into for the purpose of removing all pretexts, on the part of the British Government, for examining and searching our vessels on the coast of Africa. These articles are the price which we have agreed to pay for the privilege of not being searched by British cruisers. But the eighth article of the treaty may be annulled, at the pleasure of either Government, at the end of five years; and if it should be, what will then be our condition? All the arrogant and unjust pretensions of the British Government to visit and examine American vessels will then revive; because the treaty contains no renunciation whatever of these pretensions. The parties will then be remitted to the condition in which they were placed before it was concluded. Nay, more; the claim of Great Britain will be strengthened by the fact, that we have agreed to purchase a temporary exemption from its exercise, at the price of maintaining a squadron of eighty guns on the coast of Africa during a period of five years.

The President has referred to the stipulations contained in the treaty of Ghent as one reason for the adoption of this eighth article. The tenth article of that treaty declares as follows: "Whereas the traffic in slaves is irreconcilable with the principles of humanity and justice, and whereas

both his Majesty and the United States are desirous of continuing their efforts to promote its entire abolition, it is hereby agreed, that both the contracting parties shall use their best endeavors to accomplish so desirable an object."

The whole world knows how early, and with what persevering energy, the United States have exerted themselves to suppress this odious trade. They were the first, a few years after the treaty of Ghent, to denounce it as piracy under their laws; and other nations have followed their example. They have faithfully complied with the treaty of Ghent, in using their best endeavors for the suppression of this trade. But will any person pretend that the tenth article of this treaty imposes any obligation upon them to make a new and distinct treaty, abridging their liberty of thinking and acting for themselves in accomplishing this desirable object; and compelling them to maintain a squadron on the coast of Africa, to act in concert with a British squadron, for this purpose? Surely, Lord Ashburton never set up any such pretension. The tenth article of the treaty of Ghent is complete in itself, and contemplated no new stipulation between the two Governments.

Senators say that the two squadrons are to act independently of each other; and no danger now exists that American vessels will be visited and examined by British cruisers. I trust that the facts may justify their prediction. But the treaty itself provides that the two Governments shall "give such orders to the officers commanding their respective forces, as shall enable them most effectually to act in concert and co-operation." The British squadron on the coast of Africa will necessarily be larger than the American; and it will be commanded by an admiral, or other officer of high rank. Although no direct orders may be issued from the British commander to an American officer; yet, when the two squadrons are bound to co-operate with each other, influence will, probably, be substituted for command. The American squadron will thus, in effect, become a mere subsidiary force to that of England. Upon a review of all the considerations involved in this subject, I feel deeply solicitous that the pending motion should prevail, to strike this eighth article from the treaty. There is not the least danger but that it will be ratified by England without this article. The honor of the nation requires that we should make this amendment. After all that has passed, we should stand upon that sacred principle of the law of nations that the American flag—waving at the mast head of an American vessel, shall protect her from visitation and search by British cruisers. In what condition do we place France by yielding to the demands of England,—that France, whose people have ever been ready and ever willing to stand by us in the day and hour of danger? It is known to us all that England, by her persevering solicitations, had obtained from the Governments of France,

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Russia, Prussia, and Austria, a treaty yielding the right of search on the coast of Africa; and she expected to extort this concession from us, through the moral influence of these nations. The treaty had not yet been ratified by France, when our minister at Paris interposed. His powerful protest against it aroused the French people to a sense of their danger. They took the alarm, and, like their fathers in the Revolution, they united with us in asserting the independence of their flag and our flag. Such a storm of indignation was thus raised, that the French Government withheld its ratification from the quintuple treaty. And yet, after all this, we have deserted our ancient ally—we have framed a treaty with the British Government, by which they not only do not renounce the right of search, but have obtained from us an implied acknowledgment of the existence of such a right, by our engagement, in consideration of the temporary suspension of its exercise, to maintain a squadron of eighty guns on the coast of Africa for five years, to act in concert and co-operation with the British squadron. Surely, surely, the Senate will not ratify this article of the treaty. Surely, surely, the Senate will not ratify the unjust claim of the British Government to be the supreme protector of the rights of humanity, either on the ocean or on the land.

I have now reached the North-eastern boundary question; and I have, on former occasions, written and spoken so much in support of our title to the disputed territory, that I shall trouble the Senate with but a few observations on this branch of the subject. I entirely concur in the opinion formerly expressed by Mr. Webster, that the claim of the British Government "does not amount to the dignity of a debatable question." The Senate unanimously adopted a resolution on the 4th of July, 1838, reported by myself, as chairman of the Committee on Foreign Relations, declaring, "That after a careful examination, and deliberate consideration of the controversy between the United States and Great Britain relative to the North-eastern boundary of the former, the Senate does not entertain a doubt of the entire practicability of running and marking that boundary in strict conformity with the stipulations of the definitive treaty of peace of seventeen hundred and eighty-three; and it entertains a perfect conviction of the justice and validity of the title of the United States to the full extent of all the territory in dispute between the two powers." The distinguished predecessor (Mr. CLAY) of the Senator from Kentucky, (Mr. CRITTENDEN,) then a member of the Committee on Foreign Relations, cordially approved both of the report and of this resolution; and, upon his motion, the latter was considered and adopted on the anniversary of our independence. He said that there was a peculiar fitness in resolving to maintain the independence and integrity of the old thirteen United States on the anniversary of that memorable day on which

our independence was declared. I can never, then, admit that our title to the disputed territory was even doubtful.

[Here Mr. B. made an extended examination of our title as described in former treaties, and continued thus:]

I have said much more on this branch of the subject than I had intended, not for the purpose of establishing our right, but to show that the miserable pretexts to which the British Government have been compelled to resort in order to obtain our territory, are unworthy of a great nation, and that Lord Ashburton can never free them from the imputation of demanding that to which they must have known they had no right.

Let me now present a sketch of the history of this negotiation between Mr. Webster and Lord Ashburton, in relation to the Maine boundary, in a plain and distinct form, before the Senate. The first fact which strikes the mind with astonishment is, that Mr. Webster should have agreed, in their preliminary conferences, to waive all discussion "on the general grounds on which each party considers their claims respectively to rest," as not calculated to lead to any practical result. This appears conclusively from the very first paragraph of the first letter addressed by Lord Ashburton to Mr. Webster, on the 18th June, 1842, and his answer of the 8th July.

I may be asked what course Mr. Webster, in my opinion, ought to have pursued. I answer, he ought to have invariably insisted on our right to the disputed territory; but, at the same time, to have expressed his willingness, for the sake of good neighborhood, and in consideration of a fair equivalent in territory, to have yielded this right so far as to grant to Great Britain what her commissioners had so earnestly desired at Ghent—"such a variation of the line of frontier as might secure a direct communication between Quebec and Halifax." Nature herself seems to have pointed out these mutual equivalents. Whoever will cast his eye over the map of Maine and New Brunswick, must be forcibly struck with this truth. If the right of way over our territory between Halifax and Quebec had been alone solicited, it ought to have been conceded to Great Britain in exchange for the right to navigate the St. John. But, as the British Government earnestly desired to possess the right of sovereignty in the soil over which this way passed, the northern triangle of Maine ought to have been surrendered for the much smaller triangle belonging to the province of New Brunswick, west of the St. John. This would have established a river boundary between the two countries, from the point where the due-north line from the monument strikes Eel River, all the distance round by Eel River, the St. John, and the St. Francis, to the western highland boundary of the treaty. But what is our present condition, under this

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treaty? We have ceded to Great Britain all the territory she desired; and yet we have not obtained this narrow strip of territory west of the St. John. She still retains it: and there an organized system of smuggling can be established; and from thence, in case of war, her troops can be poured into the very heart of the State of Maine. To preserve peace and good neighborhood between independent nations, a river or a mountain boundary has always been deemed of essential importance. And yet, strange as it may seem, we have never insisted upon this river boundary, on the east of Maine, which Nature herself seems to have established; whilst we have actually surrendered into the keeping of Great Britain the whole of our western mountain boundary.

Lord Ashburton having obtained from Mr. Webster the important concession that the right of the United States to the disputed territory should no longer be a subject of discussion, the next concession which this shrewd, practical diplomatist desired to obtain, seemed to follow as an almost necessary consequence. For years the British Government have contended that the whole territory of Maine north of these pretended highlands, which take a westerly direction from Mars Hill, was in dispute; and that it was impossible to ascertain the rights of the respective parties, according to the treaty. Assuming these facts, they had, over and over again, proposed to divide the disputed territory between the two countries, without granting any equivalent to us beyond its limits. When the American negotiator, therefore, in the very beginning, admitted that it would be in vain for us to insist upon our rights under the treaty, it seemed to follow, as a necessary consequence, that the disputed territory must be divided between the parties, according to the suggestion of the British Government. But this was far from the opinion of the Legislature of Maine. Indeed, it does not even seem to have originally been the intention of Lord Ashburton himself to make any such extravagant demand. The Secretary of State, in his letter to Gov. Fairfield, dated 11th April, 1842, informs him that his Lordship has "officially announced to this department, that, in regard to the boundary question, he has authority to treat for a conventional line, or line by agreement, on such terms and conditions, and with such mutual considerations and equivalents as may be thought just and equitable." I would ask every Senator of this body, if, when he first read this letter of Mr. Webster, it entered into his imagination to conceive that Lord Ashburton, by these expressions, meant no more than a division of the disputed territory between the parties. Had he thus expressed himself, in distinct terms—my life upon it, Maine never would have appointed commissioners. But Maine did not leave this question in doubt. Her Legislature, on the 20th May, 1842, at the time when her commissioners were chosen, resolved, "That this State cannot regard the re-

linquishment, by the British Government, of any claim heretofore advanced by it to the territory included within the limits of the line of this State, as designated by the treaty of 1783, and uniformly claimed by Maine, as a consideration or equivalent within the meaning of these resolutions."

It is a most curious point of diplomatic history, how, in the very face of this resolution of instructions, the Maine commissioners were led on, step by step, to give their assent to the present treaty. It will be well worth while to spend a few moments in tracing this strange history.

The commissioners of Maine had their first audience with Mr. Webster on Monday, the 18th of June. On the 17th June, Mr. Webster informed Lord Ashburton that he was prepared to commence the negotiation. On the 18th June, they held their first conference; but what transpired at this conference is buried in oblivion. No record of it will ever meet the public eye. If Mr. Webster had evinced half as much skill in managing Lord Ashburton as he displayed in managing the commissioners of Maine, that State would have acquired the strip of territory on the right bank of the St. John, which she so much desired to possess.

The result of this conference was the letter of Lord Ashburton to Mr. Webster of the 21st of June. This letter, although conciliatory in its terms, is one of bold and barefaced pretension. It asserts the principle (which both the State of Maine and the General Government had so long resisted) that there must be a division of the disputed territory between the two countries, without any other equivalent to us; and it not only demands for Great Britain all the disputed territory north of the St. John and the St. Francis, but also the whole of the Madawaska settlement south of the St. John. Nay, more: his Lordship asserts a claim, of which we never had before heard, to the whole territory south of the St. Francis and west of the St. John, down to "some one of its sources" in the highlands—thus intending to deprive Maine not only of her western highland boundary, but of the whole valley between that boundary and the river St. John. He seems to have well understood the policy of asking much more than he would be willing to accept. In making this demand, his Lordship resorts to the common diplomatic finesse, that he could not, in any case, abandon the obvious interests of the Madawaska settlement south of the St. John; and, to give this and other declarations the greater effect, he solemnly declares: "I have not treated the subject in the ordinary form of a bargain, where the party making the proposal leaves himself something to give up. The case would not admit of this, even if I could bring myself so to act." And yet the case did admit of this; and his Lordship did bring himself very quietly so to act, within a few days, and as soon as he discovered that the Maine commissioners had resisted this claim to

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the Madawaska settlement with becoming spirit; his pretended instructions to the contrary notwithstanding.

Mr. Webster refers this letter of Lord Ashburton to the commissioners of Maine, and reserves to himself the part of mediator between them and Lord Ashburton. In their note to him of the 29th June, they declare (page 56) that they can never surrender the Madawaska settlement south of the St. John; "and that, if the adoption of such a line is a *sine qua non* on the part of the British Government, the commissioners on the part of the State of Maine feel it their duty as distinctly to say, that any attempt at an amicable adjustment of the controversy respecting the North-eastern boundary on that basis, with the consent of Maine, would be entirely fruitless."

The Maine commissioners then proceed to offer to Mr. Webster a counter-*projet*, and to propose a conventional line. And here permit me to observe, that it is a most astonishing fact, that these commissioners never even asked for a cession of the narrow triangular strip of land west of the St. John. I venture to say that no American statesman, who has ever examined the subject of a conventional line, has entertained any other idea than that this strip of land ought to be the equivalent for the tract of country north of the St. John and St. Francis. If a bare right of way was to be surrendered to England over the disputed territory, the navigation of the St. John would be the natural equivalent; but if, in addition to this, the British Government asked a cession of the sovereignty and soil of the territory north of the St. John, then the equally fair equivalent was a surrender by them to Maine of the strip of land north of Eel River, on the right bank of the St. John—thus establishing a river boundary between Maine and New Brunswick. This impression has been deeply fixed upon my mind for years. I have talked of it a hundred times, and every person with whom I have conversed has been under the same impression. This was the "general and confident expectation of the people of Maine," as we are informed by her commissioners. With a view to this, the Legislature of that State had solemnly resolved that no relinquishment of territory on the part of the British Government, within what it chose to denominate the disputed territory, should ever be considered by Maine as an equivalent for the surrender of any portion of that territory to Great Britain.

This resolution, it is well known, pointed clearly and distinctly to the acquisition of the strip west of the St. John. And yet the Maine commissioners, in their counter-*projet*, not only did not demand this territory, but they expressly surrendered all claim to it. And why? Because, to use their own language, "they have been assured that Lord Ashburton is restrained, by his instructions, from yielding the island of Grand Menan, or any of the islands in Passamaquoddy Bay, or even any portion of the

narrow strip of territory which lies between the due-north line from the source of the St. Croix and the St. John River, above Eel River, (so called,) as an equivalent for any portion of the territory claimed by Maine as within her boundaries." By whom had they been thus assured? Unquestionably by Mr. Webster. By whom had they been prevailed upon to surrender the claims of their State to this strip of territory? Certainly by Mr. Webster, upon the assurance that Lord Ashburton was restrained, by his instructions, from yielding it. This was the fatal point of negotiation for the State of Maine. It was here that the rights of that State, and of the United States, were abandoned. This territory ought to have been resolutely demanded as an equivalent for the darling object which Great Britain had for so many years eagerly pursued—that of acquiring the territory over which lay the communication between New Brunswick and Quebec. If Lord Ashburton's instructions prohibited him from surrendering this strip of territory, new instructions could and would have been obtained, had they been found necessary. If this had not been the case, I would have referred the question to another arbiter, (an alternative to which Lord Ashburton often alludes,) or have hazarded any other consequences, rather than have tamely yielded the principle against which we had so long contended—that our right to the disputed territory was doubtful; and, therefore, because it was so, that a division of it ought to be made between the two nations. But his Lordship (according to his own declaration) never could have surrendered the Madawaska territory south of the St. John; and yet he did agree to surrender it, before it was possible for him to have obtained new instructions from England. Had the Maine commissioners insisted upon this tract of country with the same manly firmness as they had done upon retaining the Madawaska settlement south of the St. John, in all human probability it would have been attended with a similar result. His Lordship's alleged instructions would have yielded to circumstances, as they had done before; and this negotiation might have closed with honor to the country. The moment that the Maine commissioners were prevailed upon to yield this point without a struggle, all was lost. Every principle for which we had so long contended was at once abandoned; and nothing more remained than to decide how much of the territory of Maine should be conceded to the demands of Great Britain. The Maine commissioners seem themselves to have been deeply sensible of this degrading truth. They declare that, as they can obtain no equivalent beyond the disputed territory, "they feel themselves constrained to say that the portion of territory within the limits of Maine, as claimed by her, which they are prepared, in a spirit of peace and good neighborhood, to yield for the accommodation of Great Britain, must be restrained and confined to such portions only,

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and in such reasonable extent, as is necessary to secure to Great Britain an unobstructed communication and connection of her colonies with each other."

They then proposed to yield to Great Britain all that had been awarded to her by the King of the Netherlands, (whose award the Senate had so promptly rejected, but which had been so eagerly accepted by the British King,) with the exception of a small portion of the territory north of the St. Francis. This proposition gave to England all the territory that was necessary to secure the communication between her provinces; but whilst doing this, it would, to a partial extent, have saved our Government from the disgrace of having, for so many years, warred against the award of the King of the Netherlands, and afterwards accepted worse terms than it proposed.

Mr. Webster, on the 7th of July, transmits this letter of the commissioners of Maine to Lord Ashburton, accompanied by a long diplomatic note. In this note he expressly recognizes that his Lordship is not at liberty "to cede the whole or part of the territory, commonly called the strip, lying east of the north line, and west of the St. John." How had Mr. Webster acquired a knowledge of this most important fact? It must have been in their verbal conferences; for Lord Ashburton had not previously committed himself by any such declaration in any portion of his correspondence. In it he has nowhere stated that his instructions forbade him to make such a surrender.

It is also worthy of remark, that whilst Mr. Webster, with a strange inconsistency between his arguments and his actions which characterizes this negotiation, is communicating to Lord Ashburton a proposition to surrender to him all that portion of the disputed territory for which England had originally contended, and although he had thus rendered it impossible that any discussion of our title could benefit his country, yet he does, notwithstanding, demonstrate the right of the State of Maine to all this territory, with irresistible clearness and power. He is equally triumphant on this question, as on the Creole and Caroline questions, or in resisting the doctrine of impressment; but, unfortunately, his arguments have fallen to the ground, without producing any beneficial result.

Lord Ashburton, with that skill and address which have characterized him throughout the whole negotiation, now eagerly seized the advantage which he had obtained over Mr. Webster and the Maine commissioners. They had fatally, in advance, bound themselves to grant all that England originally sought or desired. To this extent they stood committed; and his object now was to obtain, in addition, a cession of the western highland boundary of Maine, for the purpose of covering Quebec, and of assailing us with tremendous advantage in the event of war between the two countries. He now departs from the moderate and conciliatory tone which he had assumed everywhere else

throughout the negotiation. In his letter to Mr. Webster of the 11th July, he scouts the proposition of the commissioners of Maine; indeed, he treats it almost as if it were an insult. He feels himself "quite at a loss" to account for such a proposal, and he appeals to the candid judgment of Mr. Webster to say "whether this is a proposition for conciliation." He says that he need not examine the line proposed by the Maine commissioners in its precise details, because he is obliged to state frankly that it is inadmissible.

But with all this affected indignation and astonishment, he is very careful not to break off the negotiation. He was too wise and too wary thus to endanger the advantage he had obtained. He therefore suggests to Mr. Webster that the negotiation "would have a better chance of success by conference than by correspondence." He trusts more in the diplomacy of the secret conclave, where there was no ear to hear and no pen to record their conferences, than in the bold, open, manly mode, in which a negotiation ought to be conducted between the responsible ministers of responsible Governments.

In this letter of the 11th July, his Lordship insists upon our surrender of the district between the St. John and the highlands west of that river, and, without disguise, declares that he wants it "for no other purpose than as a boundary." This, permit me to say, is the very reason why it should never have been yielded. These highlands were our natural boundary, as well as our treaty boundary; and we ought never to have surrendered them into the hands of the only formidable enemy we can ever have on this continent.

The prediction of his Lordship, that there would be a better chance of success by conference than by correspondence, was very soon verified. In four short days, these personal conferences produced a wonderful effect. On the 15th July, 1842, Mr. Webster proposes to the commissioners of Maine and Massachusetts the lines of the present treaty; urges them in the strongest terms to surrender the western highland boundary of Maine to England; proposes to pay them out of the Treasury of the United States the sum of \$250,000, as an equivalent for the surrender of this territory of 893 square miles; promises to refund the expenses which they had incurred for the civil posse they had maintained, and the survey they had made; and concludes with the expression of his "conviction that no more advantageous arrangement could be made."

Let us here pause for a moment upon the astonishing fact, that this proposition made to the Maine commissioners proceeded, not from Lord Ashburton, but from Mr. Webster; not from the British envoy extraordinary and minister plenipotentiary, but from our Secretary of State. It was a proposition previously concocted between the negotiators, and its acceptance urged upon the Maine commissioners

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as the British ultimatum, by the very man to whom the President had intrusted the rights and the honor of his country.

We now first hear from the Massachusetts commissioners; and their letter is truly characteristic. That State had no direct interest in the question of territorial sovereignty over the disputed territory, but merely in the right of soil. They accordingly treat it as a question, not of national honor, but of dollars and cents. They say to Mr. Webster, in their letter of the 20th July: "Whether the national boundary suggested by you be suitable or unsuitable; whether the compensation which Great Britain offers to the United States for the territory conceded to her be adequate or inadequate; and whether the treaty which shall be effected shall be honorable to the country, or incompatible with its rights and dignity, are questions not for Massachusetts, but for the General Government, upon its responsibility to the whole country, to decide." They thus waive the question of national honor; but not so the question of dollars and cents. They higgled about the price to be paid for their land. They demand \$25,000 more than Mr. Webster had offered. This seems to have been their *sine qua non*; and if the sum to be given them shall be increased to the sum of \$150,000 (instead of \$125,000,) the State of Massachusetts, through her commissioners, hereby relinquishes to the United States her interest in the lands which will be excluded from the dominion of the United States by the establishment of the boundary aforesaid." It is needless to say that Mr. Webster would not stand long for \$25,000, in such a bargain, especially when the money was to be paid out of the treasury of the United States.

The Maine commissioners seemed then to be abandoned by the whole world, and their position became truly embarrassing. This proposition was urged upon them, not by Lord Ashburton, but by their own Secretary of State, with the approbation of their own National Administration. That man of gigantic intellect, whose great powers ought to have been taxed to the utmost to save Maine from dismemberment, was the very man who urged them to consent to the dismemberment. They were deserted, at the most critical moment, by the commissioners of Massachusetts, who had assented to the proposition of Mr. Webster. They were induced to believe that the question of peace or war was suspended on their decision. It was proclaimed in the streets of Washington that the obstinacy of the Maine commissioners prevented the settlement of all our questions in dispute with England. I was myself induced to give credit to this rumor; and when I was confidentially informed, by a Senator on this floor, of the true nature of the case, my astonishment and mortification knew no bounds.

Under these circumstances, a most reluctant conditional assent to the proposition of Mr. Webster was extorted from the Maine commis-

sioners. It is due to them that I should read to the Senate the terms in which it is given. Their letter to Mr. Webster bears date 22d July, 1842, and concludes with the following paragraphs:

"We are now given to understand that the Executive of the United States, representing the sovereignty of the Union, assents to the proposal; and that this department of the Government at least is anxious for its acceptance, as, in its view, most expedient for the general good.

"The commissioners of Massachusetts have already given their assent on behalf of that Commonwealth. Thus situated, the commissioners of Maine, invoking the spirit of attachment and patriotic devotion of their State to the Union, and being willing to yield to the deliberate convictions of her sister States as to the path of duty, and to interpose no obstacles to an adjustment which the general judgment of the nation shall pronounce as honorable and expedient, even if that judgment shall lead to a surrender of a portion of the birthright of the people of their State, and prized by them because it is their birthright, have determined to overcome their objections to the proposal, so far as to say, that if, upon mature consideration, the Senate of the United States shall advise and consent to the ratification of a treaty, corresponding in its terms to your proposal, and with the conditions in our memorandum accompanying this note, (marked A,) and identified by our signatures, they, by virtue of the power vested in them by the resolves of the Legislatures of Maine, give the assent of that State to such conventional line, with the terms, conditions, and equivalents herein mentioned."

This conditional assent casts the responsibility of the treaty upon the Senate of the United States. It is for us to pronounce, in the language of the Maine commissioners, whether this treaty is honorable and expedient, and such a one as the general judgment of the nation will approve. We must encounter this responsibility, whether we will or not.

It would be a waste of time to pursue the subject further, in detail. Mr. Webster, on the 28th July, in form, made the proposition to Lord Ashburton, which had, in substance, been previously agreed upon between them, in personal conference, before it was presented to the Maine commissioners; and which he, therefore, knew would be accepted: and the treaty was concluded accordingly.

Thus have we yielded to a foreign power an ancient highland boundary for which our fathers fought. Thus has it been blotted out from the treaty which acknowledged our independence. Thus has England reclaimed an important portion of that territory, which had been wrested from her by the bravery and the blood of our revolutionary fathers. We have restored to her not only all the land north of the St. John and the St. Francis, but also our mountain boundary south of these rivers, down to the Metjarmette portage. Along the base of these mountains she can, and she will, establish fortifications and military posts, from which she may at once penetrate into the very

heart of Maine. It is a vain labor for the Secretary to prove that the territory ceded is unfit for cultivation. England did not demand it for its agricultural value. Why did Lord Ashburton insist upon its surrender with so much pertinacity and zeal? Because it not only covered Quebec and Lower Canada from our assaults, but exposed our territory to the assaults of England without any interposing natural barrier. On the east, on the north, and on the west, Maine is now left naked and exposed to the attacks of our domineering and insatiable neighbor; and we have bestowed upon her all this territory, without having asked her to grant us even the small strip north of Eel River, on the right bank of the St. John, which would have given us, to that extent, a river boundary. These highlands, throughout their whole range, from the north-west head of the Connecticut River to the north-west angle of Nova Scotia, which divide the rivers flowing into the St. Lawrence from those which empty themselves into the Atlantic Ocean, will exclusively belong to England, should this treaty be ratified by the Senate. The Alpine boundary (which Adams and Franklin and Jay had secured to their country by the treaty of Independence) has been extorted from us by our most formidable enemy. We have acted as the Roman Republic would have done, had she surrendered the Alps to the hostile nations of Gaul and Germany, and thus opened the way for the invasion of Italy. And this suicidal policy has been adopted, upon the principle, or the pretext, that our Alpine barrier and boundary were not fit for cultivation! This is the argument of Mr. Webster.

And yet, to excuse this surrender, we are presented with the pretence of having obtained equivalents in lands better fitted for cultivation. What are these pretended equivalents? In describing them, I cannot do better than to adopt the language of the commissioners of Maine. "In New Hampshire (they say) Lord Ashburton consents to take the true north-west source of Connecticut River, instead of the north-east source." That is, in other words, he consents to abide by the clear language of the treaty of Independence, instead of persisting in the demand of England to substitute the north-east for "the north-westernmost head of Connecticut River." "In Vermont, he will abide by the old line which was run, marked, and solemnly established nearly seventy years ago. In New York, he will abide by the same old line, the effect of rectifying it being merely to give to New York a small angular strip on the west, and Great Britain a small angular strip on the east." "These small tracts and parings" (to use the language of the commissioners) are to be the equivalents for surrendering our mountain boundary into the keeping of Great Britain, without any estimate of the value of the strip which we have surrendered to her of our undisputed territory, along the line running due north from the monument. He has thus

most graciously consented not to take advantage of the very trifling mistake committed by the British Government itself, more than 70 years ago, in running and marking the 45th parallel of latitude, and under which we have held possession ever since we were an independent nation.

I shall not speak of the equivalents which the Secretary claims to have obtained in the North-west. The Senator from Missouri (Mr. Benton) has already placed this part of the subject in so clear a light, that it would be a waste of time again to present it to the Senate. He has clearly demonstrated that, instead of acquiring any territory in that quarter to which we were not clearly entitled under the treaty of 1783, we have actually sacrificed important territorial rights which we held under that treaty.

Away with such pretences. They are nothing more than mere flimsy apologies for the disgrace of an unqualified surrender of our territory to British dictation. They are the miserable pretences under color of which it is expected that this disgraceful treaty shall escape from public indignation.

There is one fact strictly in character with this whole transaction, which deserves special notice. It is this: that, under the terms of the treaty, we have solemnly bound ourselves to Great Britain that we shall pay to our own States of Maine and Massachusetts the expenses of their civil posse and their survey, and also the three hundred thousand dollars in consideration of their assent to the new line of boundary. On the face of the treaty, then, these two States have been restored to the protection of England, so far as the payment of this money is concerned. England, under the treaty, would be bound to demand and enforce its payment against the United States; and thus we have placed in the hands of a foreign nation the power to interfere in behalf of two States of this Union against their own Federal Government. Lord Ashburton himself thus construed the treaty; because, on the 9th August, he addressed a note to Mr. Webster, asking him to state that the British Government should incur no responsibility on account of this engagement; and to this Mr. Webster assented.

Before I leave this branch of the subject, permit me to remark, that I disclaim any imputation of improper motives to the commissioners of Maine in regard to their conduct. On the contrary, I entertain the highest respect for one and all of them. They have been led on step by step, to the consummation at which they arrived; when I firmly believe, that, if the proposition to which they finally gave their reluctant conditional assent had been presented to them at the first, in all its naked deformity, they would have repelled it as an insult to the patriotic and gallant State of which they were the honored representatives.

I have now reached the North-western boundary question; which is, by far, the most dan-

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*The British Treaty.*

[August, 1842.]

gerous and important question between the two nations. When Lord Ashburton arrived in this country, as the harbinger of peace, declaring himself to have been charged with full powers to negotiate and settle all matters in discussion between the United States and England, we had every reason to believe that the boundary question, in its whole extent, both in the north-east and the north-west, would have been finally adjusted by the negotiators. In consequence of this confident expectation, my friend from Missouri (Mr. LINN) ceased to urge his bill to establish a Territorial Government in Oregon upon the attention of the Senate, lest it might injuriously interfere with the pending negotiations. But what has been the catastrophe? Our North-western boundary not only forms no part of the treaty, but is not even mentioned or alluded to in the correspondence. We have a correspondence on the case of the Creole, on the case of the Caroline, and on the doctrine of impressment; but Mr. Webster has never addressed a line to Lord Ashburton against the encroachments of Great Britain on that vast region of our territory west of the Rocky Mountains. The only allusion which has been made to the subject, is in the President's Message transmitting the treaty to the Senate. He merely states that, "after sundry informal communications with the British minister upon the subject of the claims of the two countries to territory west of the Rocky Mountains, so little probability was found to exist of coming to any agreement upon that subject at present, that it was not thought expedient to make it one of the subjects of formal negotiation, to be entered upon between this Government and the British minister, as part of his duties under his special mission."

"It was not thought expedient to make it one of the subjects of formal negotiation." We shall not, then, even enjoy the miserable privilege of the vanquished—by all our sacrifices, we have not even purchased our peace. In all human probability, this question will never now be settled without a war, or without a surrender to Great Britain of the whole Oregon Territory north of the Columbia River; and it is even doubtful whether her lust of dominion will be satisfied with such a cession. Nay, more; we have not even purchased a momentary tranquillity; because the danger is impending, and before the close of the next session of Congress we shall probably determine to take possession of this territory. In that event, it will be almost impossible to prevent a collision between the two powers in this remote region.

I have thus concluded all I had intended to say upon this treaty. I cannot vote for its ratification without doing violence to my own conscience and my most cherished principles. Nor am I to be driven from my propriety by the dread of war. I do not apprehend that war would be the consequence of our refusal to ratify this treaty. Lord Ashburton himself has everywhere alluded to another arbitration as the alternative of a failure of success in the negotiation. If another arbiter should even make an award as unfavorable to this country as the terms of the present treaty—an event which I should not anticipate—still we could submit to his award without forfeiting our own self-respect. There would have been no national degradation in submitting to the award of the King of the Netherlands; but very different is the case when we ourselves surrender to England even more than he had bestowed upon her, after having, for so many years, resisted this award.

But suppose war should be the inevitable result? There is one calamity still worse than even war itself; and that is, national dishonor. The voluntary restoration to Great Britain of any portion of the sacred soil "of the old thirteen," which they had wrested from her dominion by the war of independence, without any corresponding equivalent in territory, is an event without a parallel in our past history; and I trust in Heaven that our future annals may never be disgraced by a similar occurrence. We might have yielded this with honor, in obedience to the award of a sovereign arbiter, chosen under the provisions of the treaty of Ghent; but we can never yield it, without national disgrace, to the imperious demand of that haughty power. In expressing myself thus independently, I am far, very far, from intending to impeach the motives of Senators who are friendly to the treaty. I know and appreciate the purity and patriotism of their intentions, and sincerely regret that my own sense of duty compels me to differ so widely from them.

The Senate of the United States in secret session, on the 30th of August, 1842, passed the following resolution:

*Resolved*, That the injunction of secrecy be removed from the British treaty, the correspondence which accompanied it, and all the proceedings of the Senate thereon, embracing the speeches and remarks of Senators, as soon as the ratifications of the said treaty shall have been exchanged, and it shall have been proclaimed by the President of the United States.]



## TWENTY-SEVENTH CONGRESS.—THIRD SESSION.

### PROCEEDINGS AND DEBATES

IN THE

### SENATE AND HOUSE OF REPRESENTATIVES.

#### IN SENATE.

MONDAY, December 5, 1842.

This being the day set apart by the Constitution of the United States for the annual meeting of Congress,

The PRESIDENT *pro tem.* (Mr. MANGUM) took the chair, and called the Senate to order at the hour of 12 o'clock. He stated that he had been informed by the Sergeant-at-Arms that there was not a quorum of the Senators present.

Mr. HUNTINGTON observed, that that being the case, it was apparent that no business could be transacted to-day; he therefore moved that the Senate adjourn till to-morrow at 12 o'clock.

The question was put, and carried in the affirmative; and the Senate accordingly adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, December 5.

At 12 o'clock the SPEAKER took the chair, and called the House to order; when, the Clerk having called the roll, it appeared that one hundred and seventy members answered to their names, being a sufficient number to constitute a quorum.

The Hon. ROBERT C. WINTHROP, a Representative elect, from the State of Massachusetts, to supply the vacancy occasioned by the resignation of the Hon. NATHAN APPLETON, appeared, was qualified, and took his seat.

Mr. CUSHING submitted the usual joint resolution for the appointment of a joint committee to wait on the President of the United States, and inform him that a quorum of the two Houses of Congress had assembled, and were ready to receive any communication he might make.

The resolution having been adopted, Messrs. CUSHING, KENNEDY of Maryland, and TILLINGHAST were appointed as the committee on the part of the House.

On motion of Mr. KENNEDY, he was excused from serving, on account of indisposition; and Mr. HUNT, of New York, was appointed in his place.

On motion of Mr. CUSHING,

*Ordered*, That the daily hour of the meeting of the House be at 12 o'clock noon, till further ordered.

#### IN SENATE.

TUESDAY, December 6.

The PRESIDENT *pro tem.* took the chair at 12 o'clock, and stated that he had been informed by the Sergeant-at-Arms that there was still no quorum present. Such being the fact,

On motion of Mr. KEER, the Senate adjourned till to-morrow morning at 12 o'clock.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, December 6.

*Death of the Hon. J. W. Williams.*

Mr. JOHN T. MASON rose to announce the death of the Hon. JAMES W. WILLIAMS, of Maryland, and spoke as follows:

Mr. SPEAKER: I rise to announce the death of the Hon. JAMES W. WILLIAMS, a member of this House from the State of Maryland. Mr. WILLIAMS died suddenly, on the morning of the 2d inst., with a stroke of paralysis, which attacked him in his carriage while on his way to the seat of Government. Although he had been for a long time in feeble health, yet the very sudden and unexpected termination to

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*Death of the Hon. J. W. Williams.*

[DECEMBER, 1842.]

which his disease finally came, was well calculated to add new pangs to the grief of his family and friends, which, without that circumstance, would have been deep and poignant at the loss of a parent and husband so devoted, a friend so faithful, and a man so estimable. The profound and unaffected sorrow with which his neighbors and friends received the sad intelligence of his death, the undivided voice with which his many virtues are acknowledged by those with whom he has been associated here, and the confidence which has been reposed in him from time to time by the citizens of his State, constitute a more eloquent and effective encomium upon him than any thing I can say. In one respect—perhaps in none other—it is well that I have been selected to pay this last tribute to the memory of the deceased. No one, perhaps, on this floor, knew so well, and none could speak with the same knowledge, of those traits which characterized him, and which so exalted him in the estimation of the large circle of his acquaintance. During the whole time that I have been in public life—now four years—whether in our State Legislature, or as a member of this body, Mr. WILLIAMS has been associated with me. At first an adviser, and always a friend, I have had every opportunity of finding out his character, and of appreciating his worth. A more bland and amiable gentleman—a more upright man—a more faithful public servant—and a more sagacious statesman, I have never met with. The friendship and respect of all who knew him; the confidence of his neighbors; his frequent exaltation to responsible public stations; and the extraordinary verification of his prophecy of the civil revolution in Maryland in 1836, and of her present financial embarrassments—made long before any one else had the wisdom to foresee them—are all-abundant evidences of the truth of what I have said. On occasions like these, it is not unusual, I am aware, to pass high encomiums upon the character of the deceased—a mode of proceeding the less requisite in the present instance, as the character of Mr. WILLIAMS was too well established, and held in too high esteem, to have any thing to hope from praise, or to fear from censure. His mild and gentle spirit rendered it nearly impossible for him to have any enemies. The innocence and simplicity of his behavior, the sensibility of his heart, the fidelity with which he discharged the duties of life, the equanimity with which he bore its rebukes and sufferings, will leave a lasting impression on the minds of his friends and acquaintances.

We have just met to enter upon a new session; and the first thing almost that claims our attention—coming, as it were, as a message from the Executive on high, interrupting the salutations of friends, marring the pleasure of the occasion, and checking the ardor of our hopes—is another example, in the death of our friend, of the uncertainty of human life. It could not have come on a more fit occasion.

We have entered upon a new portion of time, and such occasions are peculiarly favorable to moral reflection. On an entrance on a new scene, or a new period in our life, a contemplative mind will be naturally employed in estimating its acquisitions, comparing its improvements, retracing past occurrences, and revolving future prospects. The example of the deceased is not only before you for such a wholesome exercise of the mind; but to it may be added his voice, which may now be considered as addressing you from the tomb, and enjoining upon you the duty of preparation for another life. What an example of mortality is presented on the present occasion! Without the slightest warning, without the opportunity of a moment's immediate preparation, away from home, and alone, the *destroyer* met him—no tender assiduities of friendship, no well-known voice, no wife, nor son, nor daughter was near to soothe his sorrows or close his eyes in death. May this solemn event have a wide-spread influence. Instead of murmuring at such afflictive dispensations which separate us from those we love and esteem, let us employ them as motives to set our affections upon the more lasting things of another world—remembering that, whatever ties of affection are broken by death, whatever pleasures are lost to us here, are only taken from the enjoyments of time, to be added to those of eternity.

Mr. WILLIAMS was a native of Maryland, and was aged about fifty-five years. He was for many years a prominent member of the Legislature of his State, and was at one time Speaker of the House of Delegates. During the whole time he was a member, he opposed with firmness and unabated zeal that system of internal improvements which has eventuated in overwhelming the State in endless taxation. Those who are now lamenting over what they regard the evils which that policy has brought upon them, will cherish in high respect his sagacity in predicting those evils, and the pertinacity with which he resisted the system which has entailed them on us. Those who still believe the policy to have been a wise one, must do him the justice to admit that his opposition to it was as honest as it was unyielding. In May, 1841, Mr. WILLIAMS was elected to Congress, and continued a member of this body up to the time of his death. Here, as he was in the Legislature of his State, he was vigilant and regular in his attendance upon his public duties.

In him the State of Maryland has lost a faithful public servant; his family a devoted and affectionate head; and his friends one who was always ready to make any sacrifice to advance their interests.

In conclusion, Mr. MASON offered the following resolutions, which were unanimously adopted:

*Resolved*, That this House have learned, with feelings of deep sensibility, the intelligence of the decease of the honorable JAMES W. WILLIAMS, late a

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*The President's Message.*

[27TH CONG.]

member of this Congress; and as an evidence of the sympathy which the members entertain and hereby tender to his surviving relatives and personal friends, they will wear crape on the left arm for thirty days.

*Resolved, also,* (as a further mark of respect for the memory of the deceased,) that this House do now adjourn.

*Ordered,* That the Clerk communicate to the Senate information of the death of JAMES W. WILLIAMS, and of the proceedings of this House thereon.

The House then adjourned.

#### IN SENATE.

WEDNESDAY, December 7.

Mr. HUNTINGTON presented the credentials of the Hon. SAMUEL C. CRAFT, Senator elected by the Legislature of Vermont, to fill the vacancy occasioned by the resignation of Judge PRENTISS, which were read. Mr. C. was then qualified and took his seat.

Mr. MILLER presented the credentials of the Hon. WM. L. DAYTON, Senator elected by the Legislature of New Jersey, to fill the vacancy occasioned by the death of the Hon. SAMUEL L. SOUTHARD; which were read. Mr. D. was then qualified and took his seat.

#### *The Bankrupt Law.*

Mr. BENTON gave notice that he would, on to-morrow, ask leave to introduce a bill to repeal the bankrupt law.

#### *The President's Message.*

A message was received from the House of Representatives by MATTHEW ST. CLAIR CLARKE, their Clerk, informing the Senate that a quorum of that body had assembled, and were ready to proceed to legislative business; and also informing the Senate that they had passed a resolution, and appointed a committee under it, to join such committee as might be appointed on the part of the Senate, to wait on the President of the United States, and inform him that a quorum of the two Houses of Congress had assembled, and were ready to receive any communication he might make.

On motion of Mr. KEER, the above resolution was concurred in; and the Chair was authorized to appoint a committee of two on the part of the Senate; when

Messrs. KEER and KING were appointed said committee.

A Message in writing was received from the President of the United States, by the hands of ROBERT TYLER, Esq., his private secretary, which was read as follows:

#### *To the Senate and*

#### *House of Representatives of the United States:*

We have continued reason to express our profound gratitude to the great Creator of all things for numberless benefits conferred upon us as a people. Blessed with genial seasons, the husbandman has his garners filled with abundance; and the

necessaries of life, not to speak of its luxuries, abound in every direction. While in some other nations steady and industrious labor can hardly find the means of subsistence, the greatest evil which we have to encounter is a surplus of production beyond the home demand, which seeks, and with difficulty finds, a partial market in other regions. The health of the country, with partial exception, has, for the past year, been well preserved; and, under their free and wise institutions, the United States are rapidly advancing towards the consummation of the high destiny which an overruling Providence seems to have marked out for them. Exempt from domestic convulsion, and at peace with all the world, we are free to consult as to the best means of securing and advancing the happiness of the people. Such are the circumstances under which you now assemble in your respective chambers, and which should lead us to unite in praise and thanksgiving to that great Being who made us, and who preserves us as a nation.

I congratulate you, fellow-citizens, on the happy change in the aspect of our foreign affairs since my last annual Message. Causes of complaint at that time existed between the United States and Great Britain, which, attended by irritating circumstances, threatened most seriously the public peace. The difficulty of adjusting amicably the questions at issue between the two countries, was, in no small degree, augmented by the lapse of time since they had their origin. The opinions entertained by the Executive on several of the leading topics in dispute, were frankly set forth in the Message at the opening of your late session. The appointment of a special minister by Great Britain to the United States, with power to negotiate upon most of the points of difference, indicated a desire on her part amicably to adjust them; and that minister was met by the Executive in the same spirit which had dictated his mission. The treaty consequent thereon, having been duly ratified by the two Governments, a copy, together with the correspondence which accompanied it, is herewith communicated. I trust that, whilst you may see in it nothing objectionable, it may be the means of preserving, for an indefinite period, the amicable relations happily existing between the two Governments. The question of peace or war between the United States and Great Britain, is a question of the deepest interest, not only to themselves, but to the civilized world; since it is scarcely possible that a war could exist between them without endangering the peace of Christendom. The immediate effect of the treaty upon ourselves will be felt in the security afforded to mercantile enterprise, which, no longer apprehensive of interruption, adventures its speculations in the most distant sea; and freighted with the diversified productions of every land, returns to bless our own. There is nothing in the treaty which, in the slightest degree, compromises the honor or dignity of either nation. Next to the settlement of the boundary line, which must always be a matter of difficulty between States as between individuals, the question which seemed to threaten the greatest embarrassment was that connected with the African slave-trade.

By the 10th article of the treaty of Ghent, it was expressly declared, that "whereas the traffic in slaves is irreconcilable with the principles of

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*The President's Message.*

[DECEMBER, 1842.]

humanity and justice; and whereas both his Majesty and the United States are desirous of continuing their efforts to promote its entire abolition; it is hereby agreed that both the contracting parties shall use their best endeavors to accomplish so desirable an object." In the enforcement of the laws and treaty stipulations of Great Britain, a practice had threatened to grow up, on the part of its cruisers, of subjecting to visitation ships sailing under the American flag, which, while it seriously involved our maritime rights, would subject to vexation a branch of our trade which was daily increasing, and which required the fostering care of the Government. And although Lord Aberdeen, in his correspondence with the American envoys, at London, expressly disclaimed all right to detain an American ship on the high seas, even if found with a cargo of slaves on board, and restricted the British pretension to a mere claim to visit and inquire; yet it could not well be discerned by the Executive of the United States, how such visit and inquiry could be made without detention on the voyage, and consequent interruption to the trade. It was regarded as the right of search, presented only in a new form, and expressed in different words; and I therefore felt it to be my duty distinctly to declare, in my annual Message to Congress, that no such concession could be made, and that the United States had both the will and the ability to enforce their own laws, and to protect their flag from being used for purposes wholly forbidden by those laws, and obnoxious to the moral censure of the world. Taking the Message as his letter of instructions, our then Minister at Paris felt himself required to assume the same ground in a remonstrance which he felt it to be his duty to present to M. Guizot, and, through him, to the King of the French, against what has been called the Quintuple Treaty; and his conduct, in this respect, met with the approval of this Government. In close conformity with these views, the eighth article of the treaty was framed, which provides that "each nation shall keep afloat in the African seas a force of not less than eighty guns, to act separately and apart, under instructions from their respective Governments, and for the enforcement of their respective laws and obligations." From this it will be seen that the ground assumed in the Message has been fully maintained, at the same time that the stipulations of the treaty of Ghent are to be carried out in good faith by the two countries, and that all pretence is removed for interference with our commerce for any purpose whatever, by a foreign Government. While, therefore, the United States have been standing up for the freedom of the seas, they have not thought proper to make that a pretext for avoiding a fulfilment of their treaty stipulations, or a ground for giving countenance to a trade reprobated by our laws. A similar arrangement by the other great powers could not fail to sweep from the ocean the slave-trade, without the interpolation of any new principle into the maritime code. We may be permitted to hope that the example thus set will be followed by some, if not all of them. We thereby also afford suitable protection to the fair trader in those seas; thus fulfilling at the same time the dictates of a sound policy, and complying with the claims of justice and humanity.

It would have furnished additional cause for congratulation, if the treaty could have embraced all

subjects calculated in future to lead to a misunderstanding between the two Governments. The territory of the United States, commonly called the Oregon Territory, lying on the Pacific Ocean, north of the forty-second degree of latitude, to a portion of which Great Britain lays claim, begins to attract the attention of our fellow-citizens; and the tide of population, which has reclaimed what was so lately an unbroken wilderness in more contiguous regions, is preparing to flow over those vast districts which stretch from the Rocky Mountains to the Pacific Ocean. In advance of the acquirement of individual rights to these lands, sound policy dictates that every effort should be resorted to by the two Governments to settle their respective claims. It became manifest, at an early hour of the late negotiations, that any attempt, for the time being, satisfactorily to determine those rights, would lead to a protracted discussion, which might embrace in its failure other more pressing matters; and the Executive did not regard it as proper to waive all the advantages of an honorable adjustment of other difficulties of great magnitude and importance, because this, not so immediately pressing, stood in the way. Although the difficulty referred to may not, for several years to come, involve the peace of the two countries, yet I shall not delay to urge on Great Britain the importance of its early settlement. Nor will other matters of commercial importance to the two countries be overlooked; and I have good reason to believe that it will comport with the policy of England, as it does with that of the United States, to seize upon this moment, when most of the causes of irritation have passed away, to cement the peace and amity of the two countries, by wisely removing all grounds of probable future collision.

With the other powers of Europe our relations continue on the most amicable footing. Treaties now existing with them should be rigidly observed; and every opportunity, compatible with the interests of the United States, should be seized upon to enlarge the basis of commercial intercourse. Peace with all the world is the true foundation of our policy, which can only be rendered permanent by the practice of equal and impartial justice to all. Our great desire should be to enter only into that rivalry which looks to the general good, in the cultivation of the sciences, the enlargement of the field for the exercise of the mechanical arts, and the spread of commerce (that great civilizer) to every land and sea. Carefully abstaining from interference in all questions exclusively referring themselves to the political interests of Europe, we may be permitted to hope an equal exemption from the interference of European Governments in what relates to the States of the American continent.

On the 28d of April last, the commissioners on the part of the United States, under the convention with the Mexican Republic of the 11th of April, 1839, made to the proper department a final report in relation to the proceedings of the commission. From this it appears that the total amount awarded to the claimants by the commissioners and the umpire appointed under that convention, was two million twenty-six thousand and seventy-nine dollars and sixty-eight cents. The arbiter having considered that his functions were required by the convention to terminate at the same time with those of the commissioners, returned to the board, undecided for want of time, claims

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which had been allowed by the American commissioners, to the amount of nine hundred and twenty-eight thousand six hundred and twenty dollars and eighty-eight cents. Other claims, in which the amount-sought to be recovered was three million three hundred and thirty-six thousand eight hundred and thirty-seven dollars and five cents, were submitted to the board too late for its consideration. The Minister of the United States at Mexico has been duly authorized to make demand for the payment of the awards, according to the terms of the convention, and the provisions of the act of Congress of the 12th June, 1840. He has also been instructed to communicate to that Government the expectations of the Government of the United States in relation to those claims which were not disposed of according to the provisions of the convention, and all others of citizens of the United States against the Mexican Government. He has also been furnished with other instructions, to be followed by him in case the Government of Mexico should not find itself in a condition to make present payment of the amount of the awards, in specie or its equivalent.

I am happy to be able to say that information, which is esteemed favorable, both to a just satisfaction of the awards, and a reasonable provision for other claims, has been recently received from Mr. Thompson, the Minister of the United States, who has promptly and efficiently executed the instructions of his Government in regard to this important subject.

The citizens of the United States who accompanied the late Texan expedition to Santa Fé, and who were wrongfully taken and held as prisoners of war in Mexico, have all been liberated.

A correspondence has taken place between the Department of State and the Mexican Minister of Foreign Affairs, upon the complaint of Mexico that citizens of the United States were permitted to give aid to the inhabitants of Texas in the war existing between her and that republic. Copies of this correspondence are herewith communicated to Congress, together with copies of letters on the same subject, addressed to the diplomatic corps at Mexico, by the American Minister and the Mexican Secretary of State.

Mexico has thought proper to reciprocate the mission of the United States to that Government, by accrediting to this a minister of the same rank as that of the representative of the United States in Mexico. From the circumstances connected with this mission, favorable results are anticipated from it. It is so obviously for the interest of both countries, as neighbors and friends, that all just causes of mutual dissatisfaction should be removed, that it is to be hoped neither will omit or delay the employment of any practicable and honorable means to accomplish that end.

The affairs pending between this Government and several others of the States of this hemisphere formerly under the dominion of Spain, have again, within the past year, been materially obstructed by the military revolutions and conflicts in those countries.

The ratifications of the treaty between the United States and the Republic of Ecuador, of the 18th of June, 1839, have been exchanged, and that instrument has been duly promulgated on the part of this Government. Copies are now communicated to Congress, with a view to enable that body to make

such changes in the laws applicable to our intercourse with that Republic as may be deemed requisite.

Provision has been made by the Government of Chili for the payment of the claim on account of the illegal detention of the brig *Warrior* at Coquimbo, in 1820. This Government has reason to expect that other claims of our citizens against Chili will be hastened to a final and satisfactory close.

The empire of Brazil has not been altogether exempt from those convulsions which so constantly afflict the neighboring republics. Disturbances which recently broke out are, however, now understood to be quieted. But these occurrences, by threatening the stability of the Governments, or by causing incessant and violent changes in them, or in the persons who administer them, tend greatly to retard provisions for a just indemnity for losses and injuries suffered by individual subjects or citizens of other States. The Government of the United States will feel it to be its duty, however, to consent to no delay, not unavoidable, in making satisfaction for wrongs and injuries sustained by its own citizens. Many years having, in some cases, elapsed, a decisive and effectual course of proceeding will be demanded of the respective Governments against whom claims have been preferred.

The vexatious, harassing, and expensive war which so long prevailed with the Indian tribes inhabiting the peninsula of Florida, has happily been terminated; whereby our army has been relieved from a service of the most disagreeable character, and the treasury from a large expenditure. Some casual outbreaks may occur, such as are incident to the close proximity of border settlers, and the Indians; but these, as in all other cases, may be left to the care of the local authorities, aided, when occasion may require, by the forces of the United States. A sufficient number of troops will be maintained in Florida, so long as the remotest apprehensions of danger shall exist; yet their duties will be limited rather to the garrisoning of the necessary posts, than to the maintenance of active hostilities. It is to be hoped that a territory, so long retarded in its growth, will now speedily recover from the evils incident to a protracted war, exhibiting, in the increased amount of its rich productions, true evidences of returning wealth and prosperity. By the practice of rigid justice towards the numerous Indian tribes residing within our territorial limits, and the exercise of a parental vigilance over their interests, protecting them against fraud and intrusion, and at the same time using every proper expedient to introduce among them the arts of civilized life, we may fondly hope not only to wean them from their love for war, but to inspire them with a love for peace and all its avocations. With several of the tribes, great progress in civilizing them has already been made. The schoolmaster and the missionary are found side by side; and the remnants of what were once numerous and powerful nations may yet be preserved as the builders up of a new name for themselves and their posterity.

The balance in the treasury on the 1st of January, 1842, (exclusive of the amount deposited with the States, trust funds, and indemnities,) was \$280,483 68. The receipts into the treasury during the first three quarters of the present year, from all

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sources, amount to \$28,616,592 78; of which more than fourteen millions were received from customs, and about one million from the public lands. The receipts for the fourth quarter are estimated at nearly eight millions; of which four millions are expected from customs, and three millions and a half from loans and treasury notes. The expenditures of the first three quarters of the present year exceed twenty-six millions, and those estimated for the fourth quarter amount to about eight millions; and it is anticipated there will be a deficiency of half a million on the 1st January next; but that the amount of outstanding warrants (estimated at \$800,000) will leave an actual balance of about \$224,000 in the treasury. Among the expenditures of the year, are more than eight millions for the public debt, and \$800,000 on account of the distribution to the States of the proceeds of sales of the public lands.

The present tariff of duties was somewhat hastily and hurriedly passed near the close of the late session of Congress. That it should have defects, can, therefore, be surprising to no one. To remedy such defects as may be found to exist in many of its numerous provisions, will not fail to claim your serious attention. It may well merit inquiry, whether the exaction of all duties in cash, does not call for the introduction of a system which has proved highly beneficial in countries where it has been adopted. I refer to the warehousing system. The first and most prominent effect which it would produce, would be to protect the market alike against redundant or deficient supplies of foreign fabrics; both of which, in the long run, are injurious as well to the manufacturer as to the importer. The quantity of goods in store being at all times readily known, it would enable the importer, with an approach to accuracy, to ascertain the actual wants of the market, and to regulate himself accordingly. If, however, he should fall into error by importing an excess above the public wants, he could readily correct its evils by availing himself of the benefits and advantages of the system thus established. In the storehouse, the goods imported would await the demands of the market; and their issues would be governed by the fixed principles of demand and supply. Thus an approximation would be made to a steadiness and uniformity of price, which, if attainable, would conduce to the decided advantage of mercantile and mechanical operations.

The apprehension may be well entertained, that, without something to ameliorate the rigor of cash payments, the entire import trade may fall into the hands of a few wealthy capitalists in this country and in Europe. The small importer, who requires all the money he can raise for investments abroad, and who can but ill afford to pay the lowest duty, would have to subduct in advance a portion of his funds, in order to pay the duties, and would lose the interest upon the amount thus paid for all the time the goods might remain unsold; which might absorb his profits. The rich capitalist abroad, as well as at home, would thus possess, after a short time, an almost exclusive monopoly of the import trade; and laws designed for the benefit of all, would thus operate for the benefit of the few—a result wholly uncongenial with the spirit of our institutions, and anti-republican in all its tendencies. The warehousing system would enable the importer to watch the market, and to select his own time

for offering his goods for sale. A profitable portion of the carrying trade in articles entered for the benefit of drawback, must also be most seriously affected, without the adoption of some expedient to relieve the cash system. The warehousing system would afford that relief, since the carrier would have a safe resource to the public storehouses, and might, without advancing the duty, re-ship within some reasonable period to foreign ports. A further effect of the measure would be to supersede the system of drawbacks, thereby effectually protecting the Government against fraud, as the right of debenture would not attach to goods after their withdrawal from the public stores.

In revising the existing tariff of duties, should you deem it proper to do so at your present session, I can only repeat the suggestions and recommendations which, upon several occasions, I have heretofore felt it to be my duty to offer to Congress. The great primary and controlling interest of the American people is union; union, not only in the mere forms of government—forms which may be broken—but union founded in an attachment of States and individuals for each other. This union in sentiment and feeling can only be preserved by the adoption of that course of policy which, neither giving exclusive benefits to some, nor imposing unnecessary burdens upon others, shall consult the interests of all, by pursuing a course of moderation, and thereby seeking to harmonize public opinion, and causing the people everywhere to feel and to know that the Government is careful of the interests of all alike. Nor is there any subject in regard to which moderation, connected with a wise discrimination, is more necessary than in the imposition of duties on imports. Whether reference be had to revenue—the primary object in the imposition of taxes—or to the incidents which necessarily flow from their imposition, this is entirely true. Extravagant duties defeat their end and object, not only by exciting in the public mind an hostility to the manufacturing interests, but by inducing a system of smuggling on an extensive scale, and the practice of every manner of fraud upon the revenue, which the utmost vigilance of Government cannot effectually suppress. An opposite course of policy would be attended by results essentially different, of which every interest of society—and none more than those of the manufacturer—would reap important advantages. Among the most striking of its benefits would be that derived from the general acquiescence of the country in its support, and the consequent permanency and stability which would be given to all the operations of industry. It cannot be too often repeated, that no system of legislation can be wise, which is fluctuating and uncertain. No interest can thrive under it. The prudent capitalist will never adventure his capital in manufacturing establishments, or in any other leading pursuit of life, if there exists a state of uncertainty as to whether the Government will repeal to-morrow what it has enacted to-day. Fitful profits, however high, if threatened with a ruinous reduction by a vacillating policy on the part of Government, will scarcely tempt him to trust the money which he has acquired by a life of labor upon the uncertain adventure. I, therefore, in the spirit of conciliation, and influenced by no other desire than to rescue the great interests of the country from the vortex of political contention, and in the discharge

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of the high and solemn duties of the place which I now occupy, recommend moderate duties, imposed with a wise discrimination as to their several objects, as being not only most likely to be durable, but most advantageous to every interest of society.

The report of the Secretary of the War Department exhibits a very full and satisfactory account of the various and important interests committed to the charge of that officer. It is particularly gratifying to find that the expenditures for the military service are greatly reduced in amount; that a strict system of economy has been introduced into the service, and the abuses of past years greatly reformed. The fortifications on our maritime frontier have been prosecuted with much vigor, and at many points our defences are in a very considerable state of forwardness. The suggestions in reference to the establishment of means of communication with our territories on the Pacific, and to the surveys so essential to a knowledge of the resources of the intermediate country, are entitled to the most favorable consideration. While I would propose nothing inconsistent with friendly negotiations to settle the extent of our claims in that region, yet a prudent forecast points out the necessity of such measures as may enable us to maintain our rights. The arrangements made for preserving our neutral relations on the boundary between us and Texas, and keeping in check the Indians in that quarter, will be maintained so long as circumstances may require.

For several years angry contentions have grown out of the disposition directed by law to be made of the mineral lands held by the Government in several of the States. The Government is constituted the landlord, and the citizens of the States wherein lie the lands are its tenants. The relation is an unwise one; and it would be much more conducive to the public interest that a sale of the lands should be made, than that they should remain in their present condition. The supply of the ore would be more abundantly and certainly furnished when to be drawn from the enterprise and the industry of the proprietor, than under the present system.

The recommendation of the Secretary in regard to the improvements of the Western waters, and certain prominent harbors on the lakes, merit, and I doubt not will receive, your serious attention. The great importance of these subjects to the prosperity of the extensive region referred to, and the security of the whole country in time of war, cannot escape observation. The losses of life and property which annually occur in the navigation of the Mississippi alone, because of the dangerous obstructions in the river, make a loud demand upon Congress for the adoption of efficient measures for their removal.

The report of the Secretary of the Navy will bring you acquainted with that important branch of the public defences. Considering the already vast and daily increasing commerce of the country, apart from the exposure to hostile inroad of an extended seaboard, all that relates to the navy is calculated to excite particular attention. Whatever tends to add to its efficiency, without entailing unnecessary charges upon the treasury, is well worthy of your serious consideration. It will be seen, that while an appropriation exceeding by more than a million the appropriations of the present year, is asked by the Secretary, yet that, in this

sum, is proposed to be included \$400,000 for the purchase of clothing, which, when once expended, will be annually reimbursed by the sale of the clothes, and will thus constitute a perpetual fund, without any new appropriation to the same object. To this may also be added \$50,000 asked to cover the arrearages of past years, and \$250,000 in order to maintain a competent squadron on the coast of Africa; all of which, when deducted, will reduce the expenditures nearly within the limits of those of the current year. While, however, the expenditures will thus remain very nearly the same as of the antecedent year, it is proposed to add greatly to the operations of the marine, and, in lieu of only twenty-five ships in commission, and but little in the way of building, to keep, with the same expenditure, forty-one vessels afloat, and to build twelve ships of a small class.

A strict system of accountability is established, and great pains are taken to insure industry, fidelity, and economy in every department of duty. Experiments have been instituted to test the quality of various materials, (particularly copper, iron, and coal,) so as to prevent fraud and imposition.

It will appear by the report of the Postmaster General, that the great point which, for several years, has been so much desired, has, during the current year, been fully accomplished. The expenditures of the department for the current year have been brought within its income, without lessening its general usefulness. There has been an increase of revenue equal to \$166,000 for the year 1842 over that of 1841, without, as it is believed, any addition having been made to the number of letters and newspapers transmitted through the mails. The Post Office laws have been honestly administered, and fidelity has been observed in accounting for, and paying over by the subordinates of the department, the moneys which have been received. For the details of the service, I refer you to the report.

I flatter myself that the exhibition thus made of the condition of the public administration will serve to convince you that every proper attention has been paid to the interests of the country by those who have been called to the heads of the different departments. The reduction in the annual expenditures of the Government already accomplished, furnishes a sure evidence that economy in the application of the public moneys is regarded as a paramount duty.

At peace with all the world—the personal liberty of the citizen sacredly maintained, and his rights secured under political institutions deriving all their authority from the direct sanction of the people—with a soil fertile almost beyond example, and a country blessed with every diversity of climate and production, what remains to be done in order to advance the happiness and prosperity of such a people? Under ordinary circumstances, this inquiry could readily be answered. The best that probably could be done for a people inhabiting such a country, would be to fortify their peace and security in the prosecution of their various pursuits, by guarding them against invasion from without, and violence from within. The rest, for the greater part, might be left to their own energy and enterprise. The chief embarrassments which, at the moment, exhibit themselves, have arisen from overaction; and the most difficult task which remains to be accomplished is that of correcting and over-

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coming its effects. Between the years 1833 and 1838, additions were made to bank capital and bank issues, in the form of notes designed for circulation, to an extent enormously great. The question seemed to be, not how the best currency could be provided, but in what manner the greatest amount of bank paper could be put in circulation. Thus, a vast amount of what was called money—since, for the time being, it answered the purposes of money—was thrown upon the country; an over-issue which was attended, as a necessary consequence, by an extravagant increase of the prices of all articles and property, the spread of a speculative mania all over the country, and has finally ended in a general indebtedness on the part of the States and individuals, the prostration of public and private credit, a depreciation in the market value of real and personal estate, and has left large districts of country almost entirely without any circulating medium. In view of the fact that, in 1830, the whole bank-note circulation within the United States amounted to but \$61,323,898, according to the Treasury statements, and that an addition has been made thereto of the enormous sum of \$88,000,000 in seven years, (the circulation on the 1st January, 1837, being stated at \$149,183,890,) aided by the great facilities afforded in obtaining loans from European capitalists, who were seized with the same speculative mania which prevailed in the United States—and the large importations of funds from abroad, the result of stock sales and loans—no one can be surprised at the apparent, but unsubstantial, state of prosperity which everywhere prevailed over the land; and while little cause of surprise should be felt at the present prostration of every thing, and the ruin which has befallen so many of our fellow-citizens in the sudden withdrawal from circulation of so large an amount of bank issues since 1837—exceeding, as is believed, the amount added to the paper currency for a similar period antecedent to 1837—it ceases to be a matter of astonishment that such extensive shipwreck should have been made of private fortunes, or that difficulties should exist in meeting their engagements on the part of the debtor States. Apart from which, if there be taken into account the immense losses sustained in the dishonor of numerous banks, it is less a matter of surprise that insolvency should have visited many of our fellow-citizens, than that so many should have escaped the blighting influences of the times.

In the solemn conviction of these truths, and with an ardent desire to meet the pressing necessities of the country, I felt it to be my duty to cause to be submitted to you, at the commencement of your late session, the plan of an Exchequer; the whole power and duty of maintaining which, in purity and vigor, was to be exercised by the Representatives of the people and of the States, and, therefore, virtually by the people themselves. It was proposed to place it under the control and direction of a treasury board, to consist of three commissioners, whose duty it should be to see that the law of its creation was faithfully executed; and that the great end of supplying a paper medium of exchange, at all times convertible into gold and silver, should be attained. The board, thus constituted, was given as much permanency as could be imparted to it, without endangering the proper share of responsibility which should attach to all public agents. In order to insure all the advan-

tages of a well-matured experience, the commissioners were to hold their offices for the respective periods of two, four, and six years; thereby securing, at all times, in the management of the Exchequer, the services of two men of experience, and to place them in a condition to exercise perfect independence of mind and action, it was provided that their removal should only take place for actual incapacity or infidelity to the trust, and to be followed by the President with an exposition of the causes of such removal, should it occur. It was proposed to establish subordinate boards in each of the States, under the same restrictions and limitations of the power of removal, which, with the central board, should receive, safely keep, and disburse the public moneys; and in order to furnish a sound paper medium of exchange, the Exchequer should retain of the revenues of the Government a sum not to exceed \$5,000,000 in specie, to be set apart as required by its operations, and to pay the public creditor, at its own option, either in specie, or treasury notes of denominations not less than five, nor exceeding one hundred dollars; which notes should be redeemed at the several places of issue, and to be receivable at all times and everywhere in payment of Government dues; with a restraint upon such issue of bills, that the same should not exceed the *maximum* of \$15,000,000. In order to guard against all the hazards incident to fluctuations in trade, the Secretary of the Treasury was invested with authority to issue \$5,000,000 of Government stock, should the same at any time be regarded as necessary, in order to place beyond hazard the prompt redemption of the bills which might be thrown into circulation: thus, in fact, making the issue of \$15,000,000 of exchequer bills rest substantially on \$10,000,000; and keeping in circulation never more than one and one half dollar for every dollar in specie. When to this it is added that the bills are not only everywhere receivable in Government dues but that the Government itself would be bound for their ultimate redemption, no rational doubt can exist that the paper which the Exchequer would furnish would readily enter into general circulation, and be maintained at all times at or above par with gold and silver; thereby realizing the great want of the age, and fulfilling the wishes of the people. In order to reimburse the Government the expenses of the plan, it was proposed to invest the Exchequer with the limited authority to deal in bills of exchange, (unless prohibited by the State in which an agency might be situated,) having only thirty days to run, and resting on a fair and *bona fide* basis. The legislative will on this point might be so plainly announced, as to avoid all pretext for partiality or favoritism. It was furthermore proposed to invest this Treasury agent with authority to receive on deposit, to a limited amount, the specie funds of individuals, and to grant certificates therefore, to be redeemed on presentation, under the idea (which is believed to be well founded) that such certificates would come in aid of the exchequer bills in supplying a safe and ample paper circulation. Or, if in place of the contemplated dealings in exchange, the Exchequer should be authorized not only to exchange its bills for actual deposits of specie, but for specie or its equivalents to sell drafts, charging therefor a small but reasonable premium, I cannot doubt but that the benefits of the law would be speedily manifested in the revival of



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the credit, trade, and business of the whole country. Entertaining this opinion, it becomes my duty to urge its adoption upon Congress, by reference to the strongest considerations of the public interests, with such alterations in its details as Congress may in its wisdom see fit to make.

I am well aware that this proposed alteration and amendment of the laws establishing the Treasury Department has encountered various objections; and that, among others, it has been proclaimed a Government bank of fearful and dangerous import. It is proposed to confer upon it no extraordinary powers. It purports to do no more than pay the debts of the Government with the redeemable paper of the Government; in which respect it accomplishes precisely what the Treasury does daily at this time—in issuing to the public creditors the treasury notes, which, under law, it is authorized to issue. It has no resemblance to an ordinary bank, as it furnishes no profits to private stockholders, and lends no capital to individuals. If it be objected to as a Government bank, and the objection be available, then should all the laws in relation to the Treasury be repealed, and the capacity of the Government to collect what is due to it, or pay what it owes, be abrogated.

This is the chief purpose of the proposed Exchequer, and surely, if, in the accomplishment of a purpose so essential, it affords a sound circulating medium to the country and facilities to trade, it should be regarded as no slight recommendation of it to public consideration. Properly guarded by the provisions of law, it can run into no dangerous evil; nor can any abuse arise under it, but such as the Legislature itself will be answerable for, if it be tolerated; since it is but the creature of the law, and is susceptible at all times of modification, amendment, or repeal, at the pleasure of Congress. I know that it has been objected that the system would be liable to be abused by the Legislature—by whom alone it could be abused—in the party conflicts of the day; that such abuse would manifest itself in a change of the law, which would authorize an excessive issue of paper for the purpose of inflating prices and winning popular favor. To that it may be answered, that the ascription of such a motive to Congress is altogether gratuitous and inadmissible. The theory of our institutions would lead us to a different conclusion. But a perfect security against a proceeding so reckless, would be found to exist in the very nature of things. The political party which should be so blind to the true interests of the country as to resort to such an expedient, would inevitably meet with a final overthrow, in the fact that, the moment the paper ceased to be convertible into specie, or otherwise promptly redeemed, it would become worthless, and would, in the end, dishonor the Government, involve the people in ruin, and such political party in hopeless disgrace. At the same time, such a view involves the utter impossibility of furnishing any currency other than that of the precious metals; for, if the Government itself cannot forego the temptation of excessive paper issues, what reliance can be placed in corporations, upon whom the temptations of individual aggrandizement would most strongly operate? The people would have to blame none but themselves for any injury that might arise from a course so reckless, since their agents would be the wrongdoers, and they the passive spectators.

There can be but three kinds of public currency: 1st. Gold and silver; 2d. The paper of State institutions; or, 3d. A representative of the precious metals, provided by the General Government, or under its authority. The sub-treasury system rejected the last, in any form; and, as it was believed that no reliance could be placed on the issues of local institutions, for the purposes of general circulation, it necessarily and unavoidably adopted specie as the exclusive currency for its own use. And this must ever be the case, unless one of the other kinds be used. The choice, in the present state of public sentiment, lies between an exclusive specie currency on the one hand, and Government issues of some kind on the other. That these issues cannot be made by a chartered institution, is supposed to be conclusively settled. They must be made, then, directly by Government agents. For several years past, they have been thus made in the form of treasury notes, and have answered a valuable purpose. Their usefulness has been limited by their being transient and temporary; their ceasing to bear interest at given periods, necessarily causes their speedy return, and thus restricts their range of circulation; and being used only in the disbursements of Government, they cannot reach those points where they are most required. By rendering their use permanent, to the moderate extent already mentioned, by offering no inducement for their return, and by exchanging them for coin and other values, they will constitute, to a certain extent, the general currency so much needed to maintain the internal trade of the country. And this is the Exchequer plan, so far as it may operate in furnishing a currency.

I cannot forego the occasion to urge its importance to the credit of the Government in a financial point of view. The great necessity of resorting to every proper and becoming expedient, in order to place the treasury on a footing of the highest respectability, is entirely obvious. The credit of the Government may be regarded as the very soul of the Government itself—a principle of vitality, without which all its movements are languid, and all its operations embarrassed. In this spirit the Executive felt itself bound, by the most imperative sense of duty, to submit to Congress at its last session, the propriety of making a specific pledge of the land fund, as the basis for the negotiation of the loans authorized to be contracted. I then thought that such an application of the public domain would, without doubt, have placed at the command of the Government ample funds to relieve the treasury from the temporary embarrassments under which it labored. American credit had suffered a considerable shock in Europe, from the large indebtedness of the States, and the temporary inability of some of them to meet the interest on their debts. The utter and disastrous prostration of the United States Bank of Pennsylvania had contributed largely to increase the sentiment of distrust, by reason of the loss and ruin sustained by the holders of its stock—a large portion of whom were foreigners, and many of whom were alike ignorant of our political organization, and of our actual responsibilities. It was the anxious desire of the Executive that, in the effort to negotiate the loan abroad, the American negotiator might be able to point the money-lender to the fund mortgaged for the redemption of the principal and interest of any loan he might contract, and thereby

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*Death of Mr. Williams.*

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vindicate the Government from all suspicion of bad faith, or inability to meet its engagements. Congress differed from the Executive in this view of the subject. It became, nevertheless, the duty of the Executive to resort to every expedient in its power to negotiate the authorized loan. After a failure to do so in the American market, a citizen of high character and talent was sent to Europe—with no better success; and thus the mortifying spectacle has been presented, of the inability of this Government to obtain a loan so small as not in the whole to amount to more than one-fourth of its ordinary annual income; at a time when the Governments of Europe, although involved in debt, and with their subjects heavily burdened with taxation, readily obtain loans of any amount at a greatly reduced rate of interest. It would be unprofitable to look further into this anomalous state of things; but I cannot conclude without adding, that, for a Government which has paid off its debts of two wars with the largest maritime power of Europe, and now owing a debt which is almost next to nothing, when compared with its boundless resources—a Government the strongest in the world, because emanating from the popular will, and firmly rooted in the affections of a great and free people—and whose fidelity to its engagements has never been questioned; for such a Government to have tendered to the capitalists of other countries an opportunity for a small investment of its stock, and yet to have failed, implies either the most unfounded distrust in its good faith, or a purpose, to obtain which the course pursued is the most fatal which could have been adopted. It has now become obvious to all men that the Government must look to its own means for supplying its wants; and it is consoling to know that these means are altogether adequate for the object. The Exchequer, if adopted, will greatly aid in bringing about this result. Upon what I regard as a well-founded supposition, that its bills would be readily sought for by the public creditors, and that the issue would, in a short time, reach the maximum of \$15,000,000, it is obvious that \$10,000,000 would thereby be added to the available means of the treasury, without cost or charge. Nor can I fail to urge the great and beneficial effects which would be produced in aid of all the active pursuits of life. Its effects upon the solvent State banks, while it would force into liquidation those of an opposite character, through its weekly settlements, would be highly beneficial; and, with the advantage of a sound currency, the restoration of confidence and credit would follow, with a numerous train of blessings. My convictions are most strong that these benefits would flow from the adoption of this measure; but, if the result should be adverse, there is this security in connection with it—that the law creating it may be repealed at the pleasure of the Legislature, without the slightest implication of its good faith.

I recommend to Congress to take into consideration the propriety of reimbursing a fine imposed on General Jackson, at New Orleans, at the time of the attack and defence of that city, and paid by him. Without designing any reflection on the judicial tribunal which imposed the fine, the remission at this day may be regarded as not unjust or inexpedient. The voice of the civil authority was heard amidst the glitter of arms, and obeyed by those who held the sword—thereby giving additional lustre to a memorable military achievement.

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If the laws were offended, their majesty was fully vindicated; and, although the penalty incurred and paid is worthy of little regard in a pecuniary point of view, it can hardly be doubted that it would be gratifying to the war-worn veteran, now in retirement and in the winter of his days, to be relieved from the circumstances in which that judgment placed him. There are cases in which public functionaries may be called on to weigh the public interest against their own personal hazard; and, if the civil law be violated from praiseworthy motives, or an overruling sense of public danger and public necessity, punishment may well be restrained within that limit which asserts and maintains the authority of the law, and the subjection of the military to the civil power. The defence of New Orleans, while it saved a city from the hands of the enemy, placed the name of General Jackson among those of the greatest captains of the age, and illustrated one of the brightest pages of our history. Now that the causes of excitement existing at the time have ceased to operate, it is believed that the remission of this fine, and whatever of gratification that remission might cause the eminent man who incurred and paid it, would be in accordance with the general feeling and wishes of the American people.

I have thus, fellow-citizens, acquitted myself of my duty under the constitution, by laying before you, as succinctly as I have been able, the state of the Union, and by inviting your attention to measures of much importance to the country. The Executive will most zealously unite its efforts with those of the Legislative Department in the accomplishment of all that is required to relieve the wants of a common constituency, or elevate the destinies of a beloved country.

JOHN TYLER.

WASHINGTON, December, 1842.

Mr. KERR moved that 1,500 copies of the Message and accompanying documents, and 8,500 copies without the documents, in addition to the usual quantity, be printed for the use of the Senate.

The question being put, it was carried in the affirmative.

*Death of Mr. Williams.*

A message was received from the House of Representatives, informing the Senate of the death of one of its members, Mr. J. W. WILLIAMS, late a Representative from the State of Maryland; which being read,

Mr. KERR rose, and remarked as follows:

I rise, with feelings of painful regret, to perform the duty of proposing to the Senate some special notice of the communication from the House of Representatives upon the recent and sudden death of the Hon. JAMES W. WILLIAMS, late a member of that body from the State which I have the honor here, in part, to represent.

The first news of this distressing event reached me on my journey hither. The fact was then too confidently related to admit of doubt on my part, and was soon confirmed in all its particulars.

The deceased was travelling, on Friday last,

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from his home, to the discharge of his high duties in this Capitol, when he was stricken down by the visitation of Providence—apoplexied. In a state of insensibility, he was re-conveyed to his own mansion, in time only to draw his last breath in the bosom of his afflicted family.

I will not detain you, Mr. President, by any tedious homily of mine upon this striking example of the uncertainty of the life of man, and of the poor assurance we have of its continuance, from day to day, even in the highest health, amidst the gayest enjoyments that life can supply, and with all the honors to which ambition may prompt us to aspire. We are proudly conscious of "this sensible warm motion" of our being, but little think how soon it may "become a kneaded clod!" We live on, heedless of the continual recurrence of fatal incidents like this, and take no warning from them. We seem, indeed, to live to be ever verifying the well-known aphorism—which is daily repeated—that "*Man thinks all men mortal but himself!*"

Let us, Mr. President, take to heart this fatal blow on one who, like us, perhaps, was indulging the hope of prolonged life and happiness; and, in doing the formal honors to his virtues and his memory which custom here demands of us, let us apply to ourselves the sad story of his untimely death, in solemn reflection, and keep it in mind, as a token and proof that we—aye, the wisest and the best of us—must ere long follow him to "that bourne from whence no traveller returns!"

It becomes me, as a friend of the deceased, to say a few words in justice to the character of so worthy and so excellent a citizen.

Mr. WILLIAMS was a native of Maryland, and born in a section of it distant from that in which he last and long resided. He was educated with unusual care, and great pains were taken to make him a scholar—and a good one; and he rewarded, by an assiduous improvement of his advantages, the kindness of an anxious parent, who bestowed on him the noble boon of a well-regulated education.

Though intended for the profession of the law, he married early, and became an active and distinguished merchant in our commercial emporium, (the monumental city,) but ultimately retired, as most men seem inclined to do, to the pursuit of agriculture. Yet, with the advantages of early study and a cultivated mind, this gentleman was enabled to fulfil with high credit the duties of a Representative in the Legislature of his native State, and, for his superior intelligence and usefulness, was for some time distinguished by the honor of presiding over the deliberations of its popular branch.

In the discharge of all public duties, he was able, steady, and diligent; and it is a proof of his elevation in the general confidence and respect, that he was raised by the voice of an intelligent community around him to that high

and honorable station, the duties of which he was hastening to discharge, and in which he died.

I do not choose, Mr. President, to advert to the particular religious persuasion to which this gentleman belonged; but he performed his moral duties, and his social and domestic obligations, with fidelity, with kindness, and uniform courtesy; and all who knew him will ever bear testimony to that amiable demeanor for which he was remarkable in all his private intercourse.

If the deceased had any peculiar faults or foibles I knew them not; and I trust they were only such as frail humanity is heir to. It were bootless now to weigh them in the rigid scale of justice. Let us not too scrupulously scan that account of him, which we, ourselves, could not render *but in asking mercy*:

"No farther seek his merits to disclose,  
Or draw his frailties from their dread abode—  
There they, alike, in trembling hope repose—  
The bosom of his Father and his God!"

I will offer for the adoption of the Senate, and as a memorial for our record, the resolutions which I send to the Chair:

*Resolved*, That the Senate have received with deep sensibility the proceedings of the House of Representatives on the sudden death of the Hon. JAMES W. WILLIAMS, a member of that body from the State of Maryland, and sincerely sympathize in the regrets incident to that mournful occasion.

*Resolved*, That, in testimony of their high respect for the character of the deceased, the members of the Senate will wear the usual badge of mourning for the space of thirty days; and as a further testimonial of respect for the memory of the deceased, that the Senate forthwith adjourn.

The Senate, accordingly, adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 7.

##### *The One-Hour Rule.*

Mr. W. C. JOHNSON rose for the purpose of giving notice that to-morrow he should move that the one-hour rule be rescinded.

#### IN SENATE.

THURSDAY, December 8.

##### *Election of Chaplain.*

The Senate proceeded to ballot; when 28 votes were received—of which

Mr. Tuston received	-	-	-	26,
Mr. Bulfinch	-	-	-	1, and
Blank	-	-	-	1.

Mr. Tuston was therefore declared to be duly elected.

##### *The Bankrupt Act.*

Mr. BENTON, on leave, and agreeably to notice given, introduced a bill to repeal the bankrupt act; which was read, as follows:

Whereas the bankrupt act of 1841 is unconsti-

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*The One-Hour Rule.*

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tutional and immoral, and violates the rights of the States and of individuals, and is invalid and void, and ought not to be permitted to remain on the statute-book; therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the act passed on the 19th of August, 1841, entitled "*An act to establish a uniform system of bankruptcy throughout the United States,*" be, and the same hereby is, repealed, except for the trial of cases now pending under said act; which cases may be prosecuted to termination under the following limitations and conditions, to wit:

*First.* That no discharge from his debts shall be granted to any bankrupt, except with the consent of two-thirds of his creditors, and upon the judicial certificate of his integrity, as provided for in the 36th section of the bankrupt act of April 4, 1800, which is as follows:

"That no person becoming a bankrupt, according to the intent and provisions of this act, shall be entitled to a certificate of discharge, or to any of the benefits of the act, unless the commissioners shall certify, under their hands, to the judge of the district within which such commission issues, that such bankrupt hath made a full discovery of his or her estate and effects, and in all things conformed him or herself to the directions of this act; and that there doth not appear to them any reason to doubt of the truth of such discovery, or that the same was not a full discovery of the said bankrupt's estate and effects; or unless the said judge should be of opinion that the said certificate was unreasonably denied by the commissioners; and unless two-thirds, in number and in value, of the creditors of the bankrupt, who shall be creditors for not less than fifty dollars, respectively, and who shall have duly proved their debts, under the said commission, shall sign such certificate to the judge, and testify their consent to the allowance of a certificate of discharge, in pursuance of this act; which signing and consent shall be also certified by the commissioners; but the said commissioners shall not certify the same till they have proof, by affidavit or information, in writing, of such creditors, or of the persons respectively authorized for that purpose, signing the said certificate; which affidavit or affirmation, together with the letter or power of attorney to sign, shall be laid before the judge of the district within which such commission issues, in order for the allowing the certificate of discharge; and the said certificate shall not be allowed, unless the bankrupt make oath or affirmation, in writing, that the certificate of the commissioners, and consent of the creditors thereunto, were obtained fairly and without fraud; and any of the creditors of the said bankrupt are allowed to be heard, if they shall think fit, before the respective persons aforesaid, against the making or allowing of such certificates by the commissioners or judge."

*Secondly.* That the insolvent laws of the States be respected and left in force, to the same degree that they were ordered to be respected by the 61st section of the act of 1800; which section is in the following words:

"That this act shall not repeal or annul, or be construed to repeal or annul, the laws of any State now in force, or which may hereafter be enacted, for the relief of insolvent debtors, except so far as the same may respect persons who are, or may be, clearly within the purview of this act, and whose debts shall amount, in the cases specified in the second section thereof, to the sums therein mentioned. And if any person within the purview of this act shall be imprisoned for the space of three months for any debt or upon any contract, unless the creditors of such prisoner shall proceed to prosecute a commission of bankruptcy against him or her, agreeably to the provisions of this act, such debtor may, and shall be, entitled to relief under any such laws for the relief of insolvent debtors, this act notwithstanding."

*Thirdly.* That the liens created by State laws on the property of bankrupts be respected and observed in the same full and absolute manner in which they were ordered to be respected and observed by the 64th section of the said act of 1800; which section is in these words:

"That nothing contained in this act shall be taken or con-

strued to invalidate or impair any lien existing at the date of this act upon the lands or chattels of any person who may become bankrupt."

*Fourthly.* That a person subject to involuntary bankruptcy shall not have the privilege of voluntary bankruptcy; but, on filing a declaration of insolvency, shall be subject to be proceeded against at the will of his creditors, according to the principles of the 6th section of the bankrupt act of George IV., and the 13th section of the insolvent debtors act of the same reign.

*Fifthly.* That the operation of the act be prospective only, according to the first section of the bankrupt act of the year 1800.

*Sixthly.* That agreements on the part of Bankrupts in office to assign a part of their salaries and emoluments to their creditors, be binding in law, and give the creditors a right to have the same retained for their benefit.

On motion of Mr. BENTON, the bill was then ordered to be printed, and read a second time.

## HOUSE OF REPRESENTATIVES.

THURSDAY, December 8.

*The One-Hour Rule.*

Mr. W. C. JOHNSON rose, pursuant to notice given yesterday, to move that the one-hour rule adopted at the last session, (which had been incorporated in the general rules, and was, therefore, in force for the present session,) be now rescinded.

Mr. JOHNSON said it was not his intention to consume the time of the House, but he felt desirous to say that it was indispensable to wise legislation that a reasonable time should be given for the discussion of the questions which should come before this House. It was due to the country that the Representatives of the people should have the opportunity to express their opinions on some of the vast questions that would arise—the currency, for instance. His object, therefore, was not to delay but to expedite the public business. He was willing that a particular day should be fixed to terminate debate on any particular bill, or that the House should have the control of it by the previous question. But he contended that no party had been benefited by the adoption of this one-hour rule. They had been here during two sessions, and, since the adoption of this rule, no member had time to express his views fully on any question. He (Mr. JOHNSON) had been thereby compelled to be a silent member of the House—[laughter]—and for one, he should desire, on one or two subjects, to address the House at a greater length than the rule in question would permit. He wished this great body to be the organ of the people; and, as their Representatives, to discuss public measures, and to carry them out after a full examination; and hence he made this motion. But as it was not his intention, as he had before stated, to consume unnecessarily the time of the House, he would now move the previous question.

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*Abolition Petitions.*

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The previous question was seconded; and as the SPEAKER was about to propose the question, "Shall the main question be now put?"

Mr. McKENNAN rose and said, believing that to be one of the best rules this House ever adopted, he would move to lay the resolution on the table; and on this motion he called for the yeas and nays.

The yeas and nays were ordered; and the motion to lay the rescinding resolution on the table prevailed as follows:—

YEAS.—Messrs. Allen, Sherlock J. Andrews, Ayer, Babcock, Baker, Barton, Beeson, Bidlack, Birdseye, Blair, Boardman, Borden, Botts, Briggs, Brockway, Milton Brown, Jeremiah Brown, Brunell, William Butler, William O. Butler, Calhoun, Thomas J. Campbell, Casey, Chapman, Childs, Chittenden, John C. Clark, James Cooper, Cowen, Cranston, Garrett Davis, Deberry, John Edwards, Fessenden, Fillmore, A. Lawrence Foster, Gamble, Giddings, Gilmer, Goggin, Patrick G. Goode, Granger, Hall, Halsted, Hays, Hendry, Holmes, Houston, Howard, Hudson, Joseph R. Ingersoll, James, Cave Johnson, Keim, John P. Kennedy, Linn, Abraham McClellan, McKennan, Marchand, Samson Mason, Mathiot, Mattocks, Maxwell, Maynard, Meriwether, Mitchell, Moore, Morgan, Morris, Morrow, Osborne, Owsley, Patridge, Pendleton, Plumer, Powell, Ramsay, Benjamin Randall, Alexander Randall, Randolph, Rayner, Rencher, Ridgway, Rodney, Rogers, William Russell, James M. Russell, Saltonstall, Shepperd, Simonton, Slade, Truman Smith, Snyder, Stanley, Stokely, Stratton, Alexander H. H. Stuart, Summers, Taliaferro, John B. Thompson, Richard W. Thompson, Tillinghast, Toland, Tomlinson, Triplett, Trumbull, Underwood, Van Rensselaer, Warren, Washington, Weller, Westbrook, Joseph L. White, Thomas W. Williams, Winthrop, Yorke, and Augustus Young—116.

NAYS.—Messrs. Adams, Arrington, Atherton, Barnard, Bowne, Boyd, Brewster, Charles Brown, Burke, Green W. Caldwell, Patrick C. Caldwell, Clifford, Clinton, Mark A. Cooper, Cross, Cushing, Daniel, Dawson, Dean, Eastman, Egbert, Everett, Ferris, John G. Floyd, Charles A. Floyd, Gerry, William O. Goode, Gordon, Gustine, Harris, Hastings, Hopkins, Hubbard, Charles J. Ingersoll, William W. Irwin, Jack, William Cost Johnson, John W. Jones, Littlefield, Lowell, Robert McClellan, McKay, McKeon, Mallory, Alfred Marshall, Mathews, Medill, Miller, Newhard, Payne, Pearce, Pickens, Read, Reding, Reynolds, Rhett, Riggs, Sanford, Shaw, William Smith, Sprigg, Steenrod, Sweney, Turney, Van Buren, Ward, Watterson, Joseph L. Williams, Wise, and Wood—70.

Mr. FILLMORE moved that the House then adjourn, which was agreed to; and the House adjourned to meet again on Monday next.

## IN SENATE.

MONDAY, December 12.

*Fine on General Jackson.*

The Senate met at 12 o'clock.

Mr. LINN gave notice that he would on tomorrow ask leave to introduce certain bills; among which was a bill to indemnify General

Andrew Jackson the fine of \$1,000, with costs, imposed on him for discharging his official duties, by Judge Hall of New Orleans.

## HOUSE OF REPRESENTATIVES.

MONDAY, December 12.

*Abolition Petitions.*

Mr. FILLMORE rose and said, as the standing committees had been appointed, and this was a short session, he would move that the President's Message be taken up for reference.

Mr. ADAMS objected; the business in order being his resolution to rescind the 21st rule, on which, for three previous days of the session, the House had refused to order the main question.

Mr. FILLMORE urged the necessity of referring to the President's Message; and observed that the resolution of the gentleman from Massachusetts would come up when the Message was disposed of.

Mr. ADAMS persisted in his objection.

Mr. WM. COST JOHNSON said, if the resolution of the gentleman from Massachusetts was thus to obstruct the public business, he would move it be laid upon the table.

Mr. CAVE JOHNSON called for the yeas and nays, which were ordered, and resulted as follows:

YEAS.—Messrs. Landaff W. Andrews, Arrington, Atherton, Barton, Beeson, Bidlack, Black, Bowne, Boyd, Milton Brown, Charles Brown, Burke, William Butler, William O. Butler, Green W. Caldwell, Patrick C. Caldwell, John Campbell, William B. Campbell, Thomas J. Campbell, Caruthers, Cary, Casey, Clifford, Clinton, Mark A. Cooper, Cross, Daniel, Dean, Deberry, Doan, Eastman, John C. Edwards, Charles A. Floyd, Fornance, Gamble, Gerry, Gilmer, Goggin, William O. Goode, Harris, Hastings, Hays, Holmes, Hopkins, Houck, Houston, Hubbard, Charles J. Ingersoll, Jack, William Cost Johnson, Cave Johnson, John W. Jones, Isaac D. Jones, Keim, Abraham McClellan, McKay, Mallory, Marchand, Thomas F. Marshall, Mathews, Medill, Meriwether, Miller, Mitchell, Moore, Newhard, Owsley, Payne, Pearce, Pickens, Plumer, Pope, Powell, Rayner, Reding, Rencher, Reynolds, Riggs, Rogers, Saunders, Shaw, Shepperd, William Smith, Snyder, Sollers, Sprigg, Steenrod, Summers, Sumter, Sweney, Taliaferro, John B. Thompson, Jacob Thompson, Triplett, Turney, Van Buren, Ward, Warren, Washington, Watterson, Weller, Westbrook, Christopher L. Williams, Joseph L. Williams, Wise, and Wood—106.

NAYS.—Messrs. Adams, Allen, Sherlock J. Andrews, Arnold, Ayer, Babcock, Baker, Barnard, Birdseye, Blair, Boardman, Borden, Botts, Brewster, Briggs, Brockway, Bronson, Jeremiah Brown, Brunell, Calhoun, Chittenden, J. C. Clark, Staley N. Clark, James Cooper, Cowen, Cranston, Cravens, Cushing, Garrett Davis, R. D. Davis, Doig, John Edwards, Egbert, Everett, Ferris, Fessenden, Fillmore, John G. Floyd, A. Lawrence Foster, Gates, Giddings, Patrick G. Goode, Gordon, Granger, Hall, Halsted, Henry, Howard, Hudson, Hunt, Joseph R. Ingersoll, James Irvin, W. W. Irwin, James, John

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*Repeal of the Bankrupt Law.*

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P. Kennedy, Andrew Kennedy, Lane, Linn, Littlefield, Lowell, Robert McClellan, McKennan, McKeon, Alfred Marshall, Samson Mason, Mathiot, Mattocks, Maxwell, Maynard, Morgan, Morris, Morrow, Osborne, Parmenter, Patridge, Pendleton, Ramsay, Benjamin Randall, Read, Ridgway, Rodney, Roosevelt, William Russell, James M. Russell, Saltonstall, Slade, Truman Smith, Stanly, Stokeley, Stratton, Alexander H. H. Stuart, Richard W. Thompson, Tillinghast, Toland, Tomlinson, Trumbull, Van Rensselaer, Wallace, Joseph L. White, Winthrop, Yorke, and John Young—102.

The resolution was, therefore, laid on the table.

## IN SENATE.

TUESDAY, December 13.

*Board of Exchequer.*

Mr. TALLMADGE, agreeably to notice, and on leave, introduced a bill amendatory of the several acts establishing the Treasury Department; which was read twice, and ordered to be printed; and

On the further motion of Mr. T., who said the bill was precisely of the same character as that introduced by him at the last session, it was postponed till Tuesday two weeks, and made the special order for that day.

## HOUSE OF REPRESENTATIVES.

TUESDAY, December 13.

*Repeal of the Bankrupt Law.*

Mr. EVERETT asked leave, pursuant to notice, to introduce a bill to repeal the bankrupt law; and he wished it to be put on its second reading, and printed. [Objections were made from all parts of the House.] He would move, then, the suspension of the rules, that it might be received.

Mr. HOPKINS called for the yeas and nays on the motion to suspend; and they were ordered, and, being taken, resulted—yeas 137, nays 63.

The rules were, therefore, suspended by a majority of two-thirds.

Mr. EVERETT then introduced his bill, which was read a first and second time. It was as follows:

## A BILL to Repeal the Bankrupt Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved on the nineteenth day of August, eighteen hundred and forty-one, be, and the same hereby is, repealed; *Provided,* That this act shall not affect any case or proceeding in bankruptcy commenced before the fifth day of December, eighteen hundred and forty-two; or any pains, penalties, or forfeitures, incurred under such act.

Mr. EVERETT moved that the bill be printed; agreed to

## IN SENATE.

WEDNESDAY, December 14.

*Fine on General Jackson.*

Mr. LINN, on leave, introduced a bill to indemnify Major-General Andrew Jackson for damages sustained in the discharge of official duty; which was read twice.

Mr. L. said the bill was very short; and, taking example of the Senator from New York, (Mr. WRIGHT,) he would not move to refer it to any committee. It was fully discussed at the last session; and its provisions being simple, were, no doubt, understood on all sides. He would, therefore, move that the bill be postponed till this day week, and made the order for that day. The motion was agreed to.

*Repeal of the Bankrupt Law.*

The orders of the day brought up Mr. BENTON's bill for the repeal of the bankrupt act.

The CHAIR announced that it was on its second reading, and would be considered as in Committee of the Whole; the question pending being on the amendment submitted by the Senator from North Carolina, (Mr. GRAHAM.)

Mr. BERRIEN observed that, if the bill was still subject to such a motion, he would move to refer it to the Committee on the Judiciary.

The CHAIR stated that the motion would be in order.

Mr. BERRIEN observed that he believed it was considered expedient, in obedience to public opinion, to bring forward the repeal of the law at the commencement of this session of Congress.

The law, as it now exists, applies to cases both of voluntary and involuntary bankruptcy. It was proposed to repeal this law, on the ground that public opinion was against it; but, in his (Mr. B.'s) opinion, the public sentiment was directed rather against that portion of the law which relates to voluntary bankruptcy, than against the law itself. With a view, then, to ascertain, by examination, whether such a bill may not be presented to the consideration of the Senate as would steer clear of the objections which may apply to the existing law, it seemed desirable that it should be referred to a committee for inquiry. And he was strengthened in this conviction by the fact, that among the numerous petitions which had been presented to Congress at a former session, upon the subject of the bankrupt law, by far the greater portion sought, not its repeal, but a modification of it, by excluding the provisions which relate to voluntary bankruptcy, and by modifying the terms upon which certificates of bankruptcy should be granted. It seemed to him that public opinion, so far as it had been ascertained by the representations made to Congress, was not at all adverse to the existence of a system of mercantile bankruptcy; and with a view of

ascertaining whether a bill in such a form might not be substituted for the present law, he thought it was desirable that it should be referred. But it was particularly desirable in another and a general view; inasmuch as it would protect the legislation of the United States Congress from the imputation of instability, and insure that respect which ought to be entertained towards all legislation. Besides, it seemed to him improper to proceed in the consideration of the matter with such rapidity, precluding the possibility of giving it that due deliberation which it required. They should not hurry their investigations upon this subject, without making those preliminary inquiries which they were in the habit of making in regard to every ordinary subject. These were the considerations which induced him to propose that the bill be referred to the Committee on the Judiciary.

Mr. BENTON objected, in the most strenuous terms, to the reference proposed by the Senator from Georgia. To refer the bill to that committee, would be tantamount to its total rejection. He would tell the Senate plainly, that, if the reference was made, he would consider the proposition to repeal the bankrupt act at once rejected. What would it be, but inviting a committee hostile to the purpose of the bill, to go into the question of a universal bankrupt system, or exercise its ingenuity to build up a system like that of the British bankrupt system? and that is not a work that can be performed this session, if it ever can be performed successfully. The committee was under the delusion of the false doctrine which induced the original measure: that delusion was, that insolvency and bankruptcy are one and the same thing. This fallacy has ever been maintained by the Judiciary in the application of the law which cannot be administered without gross error. A question cannot arise between two neighbors about a dozen of eggs, without being liable to be taken from the custody of the laws of the States and brought up to the Federal courts. And now, when this doctrine that insolvency and bankruptcy are the same, if a continuance of the law is to be contrived, it must be done in conformity with such a fallacy. The law has proved to be nothing but a great insolvent law, for the abolition of debts, for the benefit of debtors; and would it be maintained that a permanent system ought to be built up on such a foundation as that? No, he could tell the Senate they could not go into any such work. He should resist the motion for these reasons. He resisted it, also, because it was contrary to all parliamentary usage to send a bill to a committee hostile to its principles. To send it to such a committee is to send it where it is foredoomed. There was no occasion for such a course; the law has met the universal condemnation of the country. The present bill was a bill for its repeal, with provisions for bringing the remaining cases within

constitutional limits. With this view he had taken the 36th section of the old bankrupt act of 1800, which required the consent of two-thirds of the creditors to the extinction of the bankrupt's debts. The whole of the creditors are treated as a partnership for the purpose of saving their debts—all having an interest, but giving a large majority a decisive voice in the adjustment. The old bankrupt act was in reality a bankrupt system, and respected the insolvent laws of the States. But the present law undertakes to expunge the insolvent laws of States. The old law was confined to traders; but this extends to every one who wants to get rid of his debts. The old law of 1800 not only respected the insolvent laws of the States, but the lien laws of the States; this presumes to abrogate both. In the provisions of this repeal bill, the necessary clauses of the old law are to be incorporated, in relation to the remaining cases of bankruptcy. This must be done to bring them within the pale of the constitution. One good effect will be, that, although we may not tell the judges they have been guilty of gross error, we can show them that they have acted unconstitutionally. In England, a bankrupt must have his certificate signed by two-thirds of his creditors, or he is treated as an uncertified bankrupt. And he would tell the Senate that here, now, every person who has been discharged under the act of last session is an uncertified bankrupt; and his claim to be discharged from liability to his debts should be disregarded in any court acting up to the constitution. If he (Mr. B.) were a judge of a court, he would treat as a nullity any certificate under the present law, brought forward as a plea against the claim of debt. He would ask for a certificate signed by two-thirds of the creditors; and if that could not be produced, he would disregard the plea altogether. He would ask, was the Senate now to elongate this iniquitous act? and if it was, for what length of time? He could tell them how long it would admit of remaining cases being continued: just as long as the assets would hold out to pay the officers of the courts and the commissioners.

Some months ago, he read in a Philadelphia paper a notice to creditors to come forward for a dividend of half a cent in the dollar in a case of bankruptcy pending, under the old law of 1800, since the year 1801. And, three or four days ago, he read a notice in a London paper, calling on creditors to come in for a dividend of five-sixths of a penny in the pound, in a case of bankruptcy pending since the year 1798. Here has been a case where the waste of property has been going on for fifty years in England, and another case where it has been going on in this country forty-one or forty two years. He had been himself twenty-three years in the Senate, and during that time, various efforts were made to revive the old law of 1800 in some shape or other; but never, till last session, in the shape in which the

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*Election of Chaplain.*

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present law passed. And how could this law be expected to stand, when even the law of 1800 (which was in reality a bankrupt law) could not stand; but was, in the first year of its operation, condemned by the whole country? With regard to the motion of the Senator from North Carolina (Mr. GRAHAM) to amend the bill, he should say that it fairly brought up the question properly at issue. It brought up the question of repeal; and that being decided, it next presented the question of how the pending cases are to be treated. One proposition is to go on, in relation to these cases, with the bankrupt law as if not repealed; the other is, to make these remaining cases subject to the provisions of a constitutional bankrupt law. On this issue, the question is just as fairly presented, and much better presented, than it can be by any report of a committee. The motion of the Senator from North Carolina does all that can be required. It brings up the main subject on all its bearings. All that is necessary, is to fix a day for its consideration. If, however, the motion of reference was persisted in, he should call for the yeas and nays.

Mr. TALLMADGE did not know that the mere question of reference was such a vital one as to commit those who should vote for it. He supposed, from present indications, that the law would be repealed. But those who intended to vote for the repeal, could assuredly vote for the reference, without thereby being committed against the repeal. The question of reference is, simply, whether the Senate shall proceed in the matter deliberately, and upon full information; or precipitately, and without any guide. It was, he considered, all-important that the bill now under discussion, should undergo the examination of the appropriate committee. The Senator from Missouri says the question is fairly and fully presented on the motion of the Senator from North Carolina. But there are many Senators who think the question should also embrace a modification of the law; and they, too, wish to see that view presented from the proper source. Let the bill, then, go to the Committee on the Judiciary; and if the law is to be repealed, there will be time enough to effect that object. It seemed, indeed, strange to him that there should be any objection to letting the bill pass through the Judiciary Committee; for the Senate must have the same control of it after it is reported back, that it has now. He hoped there would be no objection to considering the opinion of the committee.

Mr. BERRIEN said it was truly stated by the Senator from Missouri, that the bill he proposes and the amendment offered by the Senator from North Carolina, present two questions—the question of repeal, and the question as to the terms of that repeal. But, independently of these, there was a third question. A portion of the Senate desired to have it inquired of, by a committee, whether, instead of an absolute repeal of the law, it might

not be so modified as to make it conform to the interests of the country, and to the prevailing public opinion. With a view to ascertain whether such a modification could be proposed, it was asked that the bill might be referred to the Judiciary Committee. And surely, in relation to a matter of this important nature—in relation to the exercise of a power which could alone be exercised by the General Government—notwithstanding gentlemen might entertain the opinion that the bill, even when so modified, would not be acceptable to them, yet it was but one of the ordinary courtesies of legislation to allow gentlemen who may take a different view, an opportunity of presenting their views for the consideration of that body. He (Mr. BERRIEN) denied, therefore, that the reference of the bill to the committee would at all influence the vital question of repeal or no repeal. The only effect of the reference would be, to give those who were in favor of a modification of the law an opportunity of presenting their views in a deliberate form. He would not, however, object to the yeas and nays being taken.

Mr. BENTON said if there was any Senator present who would say that the vote he should give for reference would not commit him, he (Mr. B.) was willing to withdraw the call for the yeas and nays.

Mr. CRITTENDEN said he was disposed to gratify the gentleman by the reference, although he should vote for the repeal of the law.

Mr. MERRICK said he should vote for the reference, without feeling himself committed at all, with respect to the vote he should give on the question of repeal. He intended to vote for the repeal in some form.

Mr. BENTON said he would, then, withdraw his call for the yeas and nays.

The question was then taken on referring the bill to the Committee on the Judiciary, and decided in the affirmative—yeas 17, noes 12; and it was accordingly so referred.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 14.

*Election of Chaplain.*

Mr. BRIGGS moved that the House proceed to the election of its Chaplain; which was agreed to.

The nominations having all been made, Messrs. BOWNE, HENRY, and JAMES COOPER, were appointed tellers to receive the votes.

A vote was then taken, the result of which Mr. BOWNE announced to be—

Whole number of votes	-	-	198
Necessary to a choice	-	-	100
Of which—			
Mr. Tiffany received	-	-	119
Mr. Reese	-	-	89
Mr. Muller	-	-	29
Mr. Maffitt	-	-	10
Mr. Bulfinch	-	-	1



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*Death of the Hon. Mr. Habersham.*

[27TH CONG.]

Mr. Tiffany having received a majority of all the votes given, he was declared duly elected to the chaplaincy of the House of Representatives for the present session.

## IN SENATE.

THURSDAY, December 15.

*The Quintuple Treaty.*

Mr. BENTON submitted the following resolution; which lies one day, under the rule, viz:

*Resolved*, That the President be requested to inform the Senate whether the quintuple treaty, for the suppression of the slave-trade, has been communicated to the Government of the United States in any form whatever? And if so, by whom? for what purpose? and what answer may have been returned to such communication? Also, to communicate to the Senate all the information which may have been received by the Government of the United States, going to show that the "course which this Government might take in relation to said treaty has excited no small degree of attention and discussion in Europe." Also, to inform the Senate how far the "warm animadversions," and the "great political excitement," which this treaty has caused in Europe, have any application or reference to these United States. Also, to inform the Senate what danger there was of having the "laws and the obligations" of the United States, in relation to the suppression of the slave-trade, "executed by others," if we did not "remove their pretext and motive for violating our flag, and executing our laws," by entering into the stipulations for the African squadron, and the remonstrating sentences, which are contained in the eighth and ninth articles of the late British treaty.

MONDAY, December 19.

*Death of the Hon. Mr. Habersham.*

A message was received from the House of Representatives, announcing to the Senate the death of the Hon. RICHARD W. HABERSHAM, late Representative from the State of Georgia, and the passage of certain resolutions; which message being read,

Mr. BERRIEN rose and addressed the Senate as follows:

Mr. President: In offering the resolutions which it is my duty to submit to the Senate on this occasion, the usage of this Chamber requires that I should accompany them with some notice, however brief, of the character of the deceased—with some reference, however transient, to the event which calls for this expression of our sympathy.

It would be to me, sir, a grateful, though a melancholy office, to pronounce the eulogy of my departed friend and associate—to dwell with cherished recollection on his public virtues—on his private worth—above all, on that benevolence of feeling, which was so beautifully exhibited in all his intercourse with his fellow-men. It would be my privilege to speak of him thus, sir; for it has been my good fortune

to have been associated with him from his earlier years, in relations of kindness and amity, which experienced no solitary interruption to the close of his life; while, in mutually cherishing these feelings, we only lengthened the chain which united our fathers in like friendly bonds. The occasion is, however, perhaps, inappropriate to the expression of mere private feelings—and I forbear.

Mr. HABERSHAM was a native of Georgia. His family name is associated with the records of her colonization, and is honorably inscribed on the pages of her provincial annals. It has been distinguished in each successive period of her history, and, unsullied by a spot, will now be registered on the stone which covers his own remains. In Georgia, sir, that name is the synonyme of patriotism, integrity, and benevolence.

Mr. HABERSHAM was born in the city of Savannah—I think in the year 1786. He obtained his collegiate education at Nassau Hall, in New Jersey; received the honors of that institution in 1805; and, returning to his native State, after the usual course of preparatory study, was called to the bar. He was early distinguished among his professional associates, and was for a series of years the counsel of the United States in the courts of that district. He retired from office, with the applause of the people of Georgia, when the duties which it imposed conflicted with his own sense of justice to a portion of his fellow-citizens. He served with reputation in the municipality of the city of Savannah, and in the Legislature of his native State, and has been twice honored by a seat in the councils of the Union. It can scarcely be necessary to say to those to whom I address myself, that his duties here have been discharged with zeal and fidelity, with assiduity and intelligence, and in a frank and conciliatory spirit, which, even amid the conflicts of party, secured to him the esteem and regard of his associates. He died at his own residence in Georgia, on the 2d instant, at a moment when, but for the disease which had prostrated him, he would have been hastening to unite with us in the duties of legislation.

Mr. HABERSHAM has now closed his earthly labors. Hereafter, among us, he lives only in the memory of his virtues. These will be long held in grateful remembrance by those to whom he was most intimately known. The recollection of them will, I trust, assuage the sorrows of the widowed partner of his life, and of that group of orphans who are clustering around her in this hour of anguish.

But Mr. HABERSHAM yet lives. The record of this probationary life, as to him, indeed, is closed forever. But he has gone, in the immortality of his being, to render his account to his Creator and his Judge. It remains to us to hope that he may find acceptance in that solemn hour through the atoning blood of the Redeemer; and to inscribe on our own hearts the monitory lesson which this event is calculated to impart.

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*The African Squadron.*

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Mr. B. closed by offering the usual resolutions in testimony of the respect of the Senate for the memory of the deceased, and authorizing the wearing of crape; which were read, and unanimously adopted; and, in accordance with which, the Senate forthwith adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, December 19.

*Death of the Hon. Mr. Habersham.*

Mr. GAMBLE, of Georgia, rose, and addressed the House as follows:

The present Congress, it is believed, has oftener performed the painful duty of announcing the death of its members, than any which has preceded it under the Government. In the first week of our session, we were called upon to pay the last tribute of respect to the memory of one who died on his way to the seat of Government, to resume his duties as a member of this body; and, to-day, the duty has devolved upon me to communicate to the House the mournful intelligence which has reached us, of the death of another member of this branch of the National Legislature. For some time we entertained hopes that the rumor of his death was unfounded; or, at most, premature. But it is at length reduced to painful certainty that RICHARD W. HABERSHAM is no more. He has finished his course on earth; his seat in this hall is vacant; and he now sleeps in the silent tomb. His constitution being naturally feeble, and his health somewhat impaired when he first took his seat as a member of this body—added to the severity of the climate, and his laborious and close attention to his duties, which was more than he was able to endure—brought on a disease, which has only terminated in his death; which painful event, as we are informed, took place at his residence in Habersham county, Georgia, on the second day of this month, surrounded by his family and friends. Mr. HABERSHAM was a descendant of one of the most honorable and distinguished families in Georgia. He was endowed with more than ordinary powers of mind, which was enlarged and cultivated by a liberal education. Being thus qualified, he early engaged in public life, and, by a long course of upright conduct and unbending integrity, he acquired a degree of confidence which few attain, and (what is still more rare) which he never abused. He has occupied stations of honor and trust, both under the Federal and State Governments, the duties of which he discharged to the full requisitions of the law, and entire satisfaction of those with whom he had official transaction.

In 1838 he was elected as a member of Congress, and continued in that character until his death. To you, sir, and his associates here, I need say nothing. You have witnessed his course; you appreciate his worth as a man, and his usefulness as a member of this body. And notwithstanding the political asperity of

the times during which he has been a member—and although he has been firm and unwavering in his political course—yet, I believe, he never indulged in a sentiment, or suffered an expression to escape his lips, at which even the most sensitive political opponent could justly take exception. His errors and infirmities, if any he had—and none are faultless—“were of the head and not of the heart.” He was amiable, generous, and forgiving in his disposition; his home was the centre of kindness and hospitality; and his hand ever open to the calls of charity. It may be said of him, and can with truth be said of him, that he has gone, and left not an enemy behind him. In his lamented death, Georgia has lost one of her most useful, virtuous, and talented citizens—one of her most distinguished, patriotic, and cherished sons; and his family have sustained a loss which cannot be repaired by time. May that Being who “tempers the wind to the shorn lamb,” comfort and sustain them in this, their deep affliction; and may this memento of our mortality make a deep and lasting impression upon our hearts, and cause us well to consider the admonition addressed to us in the word of truth, which is enforced by this solemn dispensation—“Be ye also ready, for in such an hour as ye think not the Son of man cometh.”

Mr. G. then offered the usual resolution, viz: that the members, as a mark of respect for the memory of the deceased, go into mourning, by wearing crape on the left arm for thirty days: which was adopted; and, as an additional mark of respect for his memory,

On motion by Mr. GAMBLE,  
The House adjourned.

## IN SENATE.

TUESDAY, December 20.

*The African Squadron.*

The following resolution, submitted by Mr. BENTON some days ago, was taken up for consideration:

*Resolved*, That the President be requested to inform the Senate whether the quintuple treaty, for the suppression of the slave-trade, has been communicated to the Government of the United States in any form whatever; and, if so, by whom? for what purpose? and what answer may have been returned to such communication? Also, to communicate to the Senate all the information which may have been received by the Government of the United States, going to show that the “course which this Government might take in relation to said treaty has excited no small degree of attention and discussion in Europe.” Also, to inform the Senate how far the “warm animadversions,” and “the great political excitement,” which this treaty has caused in Europe, have any application or reference to these United States. Also, to inform the Senate what danger there was that “the laws and the obligations” of the United States, in relation to the suppression of the slave-trade, would be “executed by others” if we did not “remove their pretext and

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motive for violating our flag and executing our laws," by entering into the stipulations for the African squadron, and the remonstrating sentences, which are contained in the 8th and 9th articles of the late British treaty. And, also, to communicate to the Senate all the correspondence which may have been received from our ministers abroad, having relation to the foregoing points of inquiry.

Mr. ARCHER said he believed he could give the Senator from Missouri all the information that he would be enabled to obtain by the adoption of this resolution. The Senator would perceive, by reference to the Message of the President, of August last, communicating the treaty between the United States and Great Britain, that an answer to the first branch of his interrogatories was there given. The President had there declared that the quintuple treaty had not been communicated to this Government by any of the parties to that treaty. It was very true, that the Government of the United States had got information of the character of that treaty, as seemed to be the case with regard to the various Governments of Europe; but it had not yet been officially communicated.

As to the other matters inquired for by the resolution, the same answer would, he thought, equally apply to them. The Government had no other means of obtaining information, than that possessed by the gentleman from Missouri himself. It was within the knowledge of the honorable Senator himself, that—in consequence, perhaps, of the importance of the treaty itself, or, perhaps, in consequence of the attention which had been attracted to it by General Cass—it had become a subject of discussion and animadversion throughout Europe, as well as the United States.

The next branch of inquiry contained in the resolution, as he (Mr. ARCHER) understood it, was in relation to the opinion which had been expressed by the Executive of the United States as to the course which this Government ought to pursue in reference to the slave-trade. He (Mr. A.) would at least presume that the honorable Senator from Missouri was indifferent, as he himself was, as to the opinions entertained by the President upon this subject; and he would therefore submit to the honorable Senator whether there could be any propriety or necessity for asking these opinions. He would ask, then, inasmuch as there had been no official communication on the subject between this and any foreign Government, wherefore should a call be made for information which could not be rendered? The President had merely expressed an opinion that it was best to execute our own laws, and not submit to the indignity of having them executed for us by other nations.

The Senator from Missouri, he was sure, would concur with him, that as there were no facts in the possession of the Executive, which were not equally in the possession of the Senator himself, there could be no necessity for the

resolution of inquiry. He hoped, therefore, the honorable Senator would be willing that the motion which he was now about to make, to lay the resolution upon the table, should prevail.

Mr. BENTON replied to the gentleman from Virginia, (Mr. ARCHER,) and said his resolution of inquiry was founded upon the President's Message of August last, recommending the ratification of the British treaty; and all the points of inquiry made by him were found in that Message. He would have made the call at the last session, when the treaty was ratified; but there was no time for it. The treaty came at the end of a nine months' session, in the midst of the dog-days, and when there was no time for inquiries. But the appropriations for the treaty were still to be made; and the information he wanted, would be used when the supplies for the African squadron were demanded. The Message says the quintuple alliance was not officially communicated to the Government. This implies that it was unofficially communicated; and, if so, the country ought to know by whom, and for what purpose. The Message speaks of our conduct in relation to that treaty, as being the subject of attention and discussion in Europe; and tells us of warm animadversions, and great political excitement, in relation to it. Of course, it is the parties to this quintuple treaty—the holy allies—who are giving us this attention, and making us the subject of this discussion; who bestow this animadversion, and experience this great excitement;—and it is certainly right that the people of the United States should know what all this portends; and how far the affairs of the United States are taken into the keeping of the holy allies. The Message also presents, as an argument for the African squadron, that others would execute our laws if we did not; and execute them in a way to violate our flag. This is presented as an argument to operate on the minds of the Senate, in favor of the ratification, when it might be an argument against carrying it into effect; for this country was not to be dragooned into an alliance. The whole case, as made out in the President's Message of August last, went to show that the holy allies had taken our conduct into consideration; and that Great Britain was going to execute our laws for us, if we did not execute them ourselves; and that this squadron and these remonstrating ambassadors were the price which we paid to appease the holy allies, and to escape search from Great Britain. This was the aspect of the Message; and he wished to know whether there were facts to justify it. If there were, he thought it a case for resistance, not for submission.

Mr. ARCHER desired to say a single word, in relation to this matter, to the Senator from Missouri, and to the Senate. He presumed no one would contend that it comported with the dignity of that body to make a call upon the Executive for information, when they were suf-

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ficiently advised that no information could be obtained. And, to be convinced that none could be obtained, it was only necessary to refer to the Message of the President. What, then, was the object of this resolution? Was it a resolution of crimination? The Senator was informed that there had been no communication made to this Government by the parties to the quintuple treaty: how, then, could he expect to obtain the information he asked?

How could the Government, by any possibility, furnish the evidence demanded by the honorable Senator, when they were told by the Executive that he had had no negotiations upon the subject with any power whatever? There being, then, no information in the possession of the Government going to answer the inquiry contained in the resolution, he would submit to the honorable Senator whether it was fit that they should send a criminatory or a vindictive resolution to the President. He would put it to the honorable Senator, if it was really information that he sought. The honorable Senator knew full well there was no information that he could receive. His object, then, with all due respect to the honorable Senator, he (Mr. A.) must suppose was merely to utter a denunciation against the Executive. This being his view of the case, he felt bound to move that the resolution be laid upon the table.

Mr. KING suggested that it would be better to postpone its consideration, and, in the mean time, order it to be printed.

Mr. ARCHER said he intended no discourtesy towards any honorable Senator; and if any one desired to discuss the resolution further, he would withdraw the motion.

Mr. BENTON observed that he wanted the information, not for crimination, but for use on the discussion of the appropriation. Every thing in relation to the origin and cause of this African squadron would then be wanting; for he, for one, meant to resist the appropriations for this African crusade. He said the gentleman from Virginia (Mr. ARONER) was mistaken in supposing that he wanted the opinions of the Administration. Not so. He had their opinions in the August Message; and he wished to see whether they had any facts for the opinions they then delivered. He wished to see if the holy allies were animadverting upon us, and whether Great Britain intended to search our ships if we did not join her in the African alliance. This seemed to be the opinion of the Administration; and Mr. B. wished to see if they had any foundation for it. With this view, he called for all the information they possessed, and especially for the correspondence of our ministers abroad. He felt certain that those ministers must have written on the subject. It could not be supposed that the President had founded his communication to the Senate on coffee-house discussions, or on newspaper discussions, or even on the debates of the French Chambers: there was nothing in all that to alarm us, or to show that the holy

allies were occupying themselves with our affairs. The President must have had official correspondence on the subject, even if he had no official communication of the treaty: and he wished to see that correspondence. He had a right to see it, and should insist upon his right.

Mr. B. then read the paragraphs from the President's Message of August last; and argued that every inquiry was bottomed upon the Message, and proper for the information of Congress and the country. Mr. B. said these paragraphs presented grave matter for the consideration of Congress and the country. They were gravely presented to the Senate, to influence its action on the treaty; and, from the case which they present, it is perfectly clear that this squadron is our tribute in men and ships to appease the holy allies, and to prevent Great Britain from searching us. It is clear, from these paragraphs, that this five years' alliance is the price which we pay for these favors. Now, it might or it might not be so. In either event, we have a right to know; and, in either event, the Administration is on the horn of a dilemma. If the holy allies and Great Britain are going to take us in hand if we do not give them this squadron, then it was cowardice and national degradation to give it. If, on the other hand, the holy allies have no designs upon us, and Great Britain has no design to search us, if we do not search ourselves, then the Senate has been trifled with, and considerations brought to bear upon them which have no foundation in fact. In either case, we have a right to know the facts. Has Great Britain threatened us? Have the holy allies taken our conduct in hand? These are the questions which arise on the President's Message; and let us have them answered. Let us have the correspondence of our ministers, if there is any. Does the Senator from Virginia undertake to say for the Administration, that they have no such correspondence? [Mr. ARONER was understood to answer negatively.] Then let the Administration answer! As the case now stands, we have given this squadron under a threat—under the threat of seeing Great Britain execute our anti-slave-trade laws for us, if we do not execute them ourselves; upon the same principle that she executes our neutrality laws for us on the Canadian frontier. The excuse—no, not the excuse! for she does not descend to excuse, but boldly justifies!—the justification for the attack on the *Caroline* was, that the United States did not, or could not, execute its own laws on that frontier; and, therefore, Great Britain was under the necessity of executing them for us. This is the language with respect to the Canada frontier; and, from the tenor of the Message, we have the same language in relation to the coast of Africa. By land and by water—at home and abroad—Great Britain undertakes to execute our laws for us, and to punish our citizens for us! and, from the termination of the *Schlosser* affair, and this African tribute in men and

ships, it seems that the present Administration admits her pretension in both cases. But, let us see. Let us have the facts—the correspondence; and let the country judge whether we have really been menaced, or whether our Administration have taken fright at nothing.

Mr. ARCHER assenting to the suggestion of postponing the resolution to Thursday, on motion to that effect, the resolution was postponed to Thursday next, and ordered to be printed.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, December 20.

#### *Mutiny and Executions on Board the Brig Somers.*

Mr. GWIN asked the permission of the House to offer the following resolution:

*Resolved*, That the President of the United States be requested to communicate to this House whatever official information may have been received at the Navy Department relative to the alleged design of mutiny on board the United States brig Somers, under the command of Alexander Slidell McKenzie; and what number of persons have been executed for said offence; their names and rank; and the proceedings which were had on board of said vessel in reference thereto.

Mr. WISE suggested to the gentleman from Mississippi, that, as a court of inquiry was to be called, from which official information would be received in a very few weeks, it would be better to postpone his resolution, until the court had been held.

Mr. GWIN intimated his intention to press his resolution, that the necessary information might be got from the President.

Mr. G. moved a suspension of the rules for the reception of his resolution, to which objection had been made.

The motion was negatived.

#### *The Bankrupt Law.*

Mr. EVERETT moved that the House take up the bill to repeal the bankrupt law.

The motion was agreed to.

Mr. EVERETT said he now offered this bill for the repeal of the bankrupt law, because he conceived it to be destroying confidence between man and man; and seemed to be a shelter for those who were disposed to live without labor. Its future operation he looked upon as injurious; and it would be difficult to ingraft any amendment upon the present act which would diminish its evils. He said he did not propose to commit this bill, because he was in favor of a total repeal of the bankrupt law; and, therefore, its committal was unnecessary. If, however, such a motion should be made, he should consider it a test question between those who desired the continuance, and those who desired the repeal of that law.

Mr. BARNARD said: This motion for a repeal of the bankrupt law came from Vermont, and from his excellent and learned friend from that

State, (Mr. EVERETT,) who took the pains to declare, at this and at the last session of Congress, that, upon the whole, the bankrupt act was the best and wisest law that Congress had ever passed. Now it was to be repealed upon the motion of the very gentleman who made this eulogium. Considering the source from which that motion emanated, and considering the sort of support which it was about to receive, it struck his mind as one of the most alarming movements he had ever witnessed in the political world. It went far to prove the truth of the charge so often made against this nation—that its legislation was destined to be unstable; not guided and governed, as it ought to be, by the settled, well-considered, well-digested opinions of the people of the country; but that it was destined to be disturbed by every wave of popular sentiment—to follow, in short, not only the shiftings and turnings of popular sentiment, but popular error, and popular delusion. That such a thing, as popular error and popular delusion existed, as well in this country as in others, he was not afraid or ashamed to say. By unsettled, ill-digested popular opinion, he never had been—and so help him God!—never would be governed.

But Vermont demanded the repeal of the bankrupt law; and, therefore, it was to be repealed. Vermont was a creditor State—she was in the happy condition of owing nobody, and everybody was indebted to her; and her Legislature, at its last session, passed a resolution instructing her Senators, and requesting her Representatives in Congress, to procure the repeal of that law. He denied the right of Vermont to dictate to Congress upon this subject, or upon any other. She might express her opinions, it was true; but the opinions that governed here were those of the members of the National Legislature, and not those of the members of her State Legislature. He was utterly hostile to this doctrine of instruction, let it come from what source it might, avowed or not avowed. What security was there for legislation, if the representatives of a State—the very same men—were to be governed one day by one set of opinions, and another day by another, just as the waves of popular sentiment ebbed and flowed. Vermont did not, it seemed, like to see her debtors escape, and, in common with almost all other creditors, she had a very great reluctance to see the dead body of debt buried out of her sight. Well, this might be a very natural feeling; but it was a morbid one, which ought not to be encouraged. Creditors were not buzzards, to feed on carrion; and he did not want to see the dead bodies kept above ground till they tainted the whole atmosphere.

He had remarked that he could not see any security for legislation in the country, unless party and party men were to be precluded from influencing it to suit their temporary purposes. If they could not be, then the legislation of the country would be blown about by every popu-

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lar gale. Unless the Representatives would abide by their own opinions after having once promulgated them, he was free to declare that there could be no stability in the policy of the country.

But his excellent friend from Vermont (Mr. EVERETT) had discovered that the bankrupt law had performed its office; that it had fulfilled its objects, and, therefore, ought to be repealed. He further avowed, that it was his opinion at the time the act was passed, that it should have been limited to the term of one year; that it ought to be a temporary law. What was a temporary law? What was it but repudiation in its most odious form—repudiation by individuals of their own debts at their own time; a proclamation by debtors of a jubilee—not like that of the Jews, which, occurring at regular and stated periods, creditors as well as debtors could prepare themselves for—but a jubilee, the time of which was to be prescribed by the debtors themselves. Such a bankrupt law was not the establishment of a rule of law; it was the establishment of an exception to a rule of law, in the face of the law itself. It was a law by which you open the prison doors, and let loose those confined at the moment; though at the next day the jails may be as full as ever—and of those, too, who are not to be set at liberty. Was that a bankrupt law in the understanding of the constitution? The constitution authorized Congress to pass uniform laws on the subject of bankruptcy: but could a law of a year's duration be called a uniform law? It was not a law, because it was not a rule of conduct affecting all alike; but it was a mere partial arbitrary act of arbitrary power, interposing between the creditor and his debtor, to break up for the time being the relations between them, and to take away the power which the law gave the former over the latter. In this way, the creditor, in his turn, might be ruined and driven to bankruptcy; though, in consequence of the temporary nature of the law, he would be precluded from its benefits. Mr. B. said he denied the power of Congress to pass any such law. It had the power to pass a permanent and uniform law, and he admitted that it had the power to repeal it; but it had no power to pass a bankrupt law that was not permanent and uniform. Such a bankrupt law as was contemplated by the constitution would have the tendency to prevent bankruptcy; but a temporary law, such as was contemplated by the gentleman from Vermont, would have the tendency to encourage bankruptcy, and to encourage extravagance and speculation, by the hope held out that a proclamation of jubilee would be made to free debtors for the time being from the power of their creditors.

If, then, this bankrupt law was to be repealed, let it be because it was inexpedient; because such a law ought never to have been passed; but, for Heaven's sake, do not let it be

repealed on the ground that it has accomplished the object for which it was enacted.

Mr. B. said he had no manner of doubt but that very much of the influence which was abroad in the country, and was brought to bear on the House at the time the bankrupt law was passed, was that of individuals, who, if they did not then hold the sentiments advanced now by his friend from Vermont, were yet willing to receive the benefits of them; in other words, they were willing that a temporary law should be passed to relieve them from their embarrassments, to be repealed, or to expire at the time they came to be creditors. He prayed and besought gentlemen, therefore, if they meant to vote for the repeal, to put their votes on better grounds than those of his friend from Vermont. Let the law be repealed, if it is to be repealed, because it is a bad law; but do not let it be repealed because it was intended as a temporary measure, and because it has fulfilled its objects.

But why should the bankrupt law be repealed? He addressed himself to those who had been its friends. What was the greatest objection to the measure, in the minds of intelligent men, at the time of its passage? Was it not because of its retrospective operation, violating, in their opinions, one of the provisions of the constitution, by impairing the obligation of contracts? That objection was now almost removed. The force of the bankrupt law in regard to old cases was almost spent; and it was now about to commence its most wholesome and beneficent functions, by operating upon cases which have arisen since its enactment. The constitutional objection was, therefore, no longer in force.

After some further remarks from Mr. B., showing the benefits derived, and to be derived, from the bankrupt act, he concluded by moving to commit the bill to the Committee on the Judiciary, with instructions to bring in a bill to repeal that part of the law providing for voluntary bankruptcy, and to provide that this shall take place in 18 months from the passage of the act.

Mr. B. said the House was aware that, in the other branch of Congress, a resolution had been adopted calling upon the Secretary of State for information in relation to this subject; and he hoped that the House would wait till that information was received, and not, by precipitate legislation, run the risk of committing an act of cruelty and injustice.

Mr. O. J. INGERSOLL said he should like to move the adoption of instructions to the committee, in case the bill was referred to their consideration. He, therefore, sent to the Chair the following instructions:

"And that the said committee be instructed to report a bill excluding the *voluntary* provision from the present bankrupt act, and including banks."

Mr. BARNARD inquired whether the motion was in order; to which

The SPEAKER replied in the affirmative.

Mr. O. J. INGERSOLL modified his instructions by striking out the word *banks*, and substituting the words *trading corporations*.

Mr. WINTHROP only wished to explain simply the reasons which should induce him to vote against the repeal of this law, representing, as he did, a great commercial community.

The power of Congress to enact a bankrupt law was not implied merely, but was found in the category of these clearly expressed and enumerated powers about which there was no dispute. Now, he held it to be the duty of Congress to exercise its power; and not to exercise it, a positive neglect and omission—not less than it would be to omit to exercise the power given to regulate commerce, establish courts, coin money, provide for the common defence of the country, and, in short, any other power expressed among those named in the constitution. He was aware that it had been suggested by his friend from Vermont, (Mr. EVERETT,) that, though the present law might be repealed, another might be enacted. But when would such an event occur? When could it be expected? Certainly not until it should be called for by the people, to sweep off the load of indebtedness that might be upon them; and then the law would itself be swept off, after having performed its office. Such was the fate of the first bankrupt law, and such seemed to be the inevitable destiny of this.

But the language of the constitution was remarkably strong. It was, not that "Congress shall have power to *pass*," but to "*establish* a uniform system of bankruptcy." Would a mere passage of an act be a fulfilment of the power to establish a system? So far from it, the reverse of the proposition would be true; and such passage be a mere temporary remedy. Such a course—the enactment of a bankrupt law for a particular temporary purpose—could be justified on no principle whatever. He, therefore, protested against the introduction of a bankrupt law at irregular intervals, and before the trader and the man of business could be aware how to act. Anticipating the results which had flowed from the insertion of the retrospective principle in the present act, he had voted for it with reluctance; and, had he believed that the whole act was destined to be so soon expunged from the statute-book, he should not have voted for it at all. And here he would make a suggestion to that gentleman, who had denounced the retrospective character of the act; and that was, that, by voting for the repeal of the law at the present time, they would become responsible for its revival hereafter. The only mode of preventing the enactment of a retrospective law was to establish the prospective provision of the present law upon a firm basis. True, the present law might not be perfect, and might require remedy in its details. What he had to say was, let it be perfected; let it be limited in its operation to traders, if necessary; and even let a provision be inserted

comprehending banks, under certain circumstances and regulations. It did seem to him that the responsibility of the enactment of a retrospective bankrupt act hereafter would rest on those gentlemen who should vote for the repeal of the present.

There was one more view of the subject which he would mention. He meant the monstrous injustice of an immediate and unconditional repeal of the law. It was known that many debtors, responding, as had been said, to the first sound of the trumpet, had advanced and obtained relief, having first stripped themselves for the purpose, and leaving as little matter to be decided upon by the courts as effects to be distributed among the creditors. A repeal of the law would not take away the benefits these men had obtained, whilst it would give the same desperate debtors the further advantage of any new bankrupt law which might be enacted hereafter. On the other hand, there were numbers whose affairs, not altogether hopeless, left the prospect of distributing something to their creditors—men whose applications for the benefit of the act had been held back, in the hope of making an honorable compromise; or whose cases had been delayed in the courts by arguments upon points of law; these would be altogether deprived of the advantages secured by more expeditious, and, perhaps, less scrupulous, debtors. In conclusion, he hoped—if it was not too late to hope—that the House would pause before it resolved to wipe out altogether the law now in force.

Mr. PAYNE remarked that one of the strongest objections which he had to the passage of this act, was its retrospective character. He was not fully persuaded that the Government had power to pass a law absolving individuals from their contracts. He could not believe it to be legal and proper for the Government to destroy the relations subsisting between debtor and creditor. Government, as he thought, should, at least, have permitted the obligations between the creditor and his security to be performed.

These were some of his objections to the law at the beginning; but, with regard to a prospective bankrupt law, properly established, he did not then, nor did he now, object. All objections, however, were disregarded by those who controlled the action of this House; and a uniform system of bankruptcy, to be perpetual as the law of the country, was passed; and this was the first time that the avowal had been made—as it had been made this morning—that the object of the bankrupt law was to violate private contracts, and to turn men loose from their obligations. It was immaterial how they regarded it here; but the eyes of all the commercial world were turned upon them; and to Europe it would appear that they repealed the law, after it had done—what? Released at least the debtor from the obligation of his contracts. It appeared to him this proposition

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portrayed, more clearly than any thing else could do, the true object the gentlemen who advocated it had in pressing it on the country. Now, if he might be permitted to advise those gentlemen who passed this law, he should say: For Heaven's sake do not lay it on this exclusive ground—that the object was to release the debtor from the obligation of his contract, for which he had received a valuable consideration.

He would declare again, that, if a bankrupt law were established, striking out the voluntary feature, and making it such a bankrupt law as was contemplated by the constitution, he should not object to see it become part of the permanent policy of our country. But if they voted for the bill which was now presented to the House, for the repeal of the existing bankrupt law, they would commit themselves with regard to the constitutionality of the whole measure. The proviso was designed to secure to those who had taken the first step, the benefit of the existing bankrupt law up to the 5th of the present month; and when this bill was introduced, he gave notice that he should move to strike out that proviso; but he was conscious of the great difficulty which must result. There was much force in what had been said by gentlemen on this subject, respecting the indecent haste of bankrupts to avail themselves of the law, to release them from their obligations; whereas, those who were less hasty, and who regretted the necessity to avail themselves of the provisions of the law, and, therefore, held back, were to be deprived of the benefits of the law. There were difficulties, too, in the way of their voting for this bill to repeal the bankrupt law, with such a provision as would compromise them on the constitutional question which it involved; and the whole case afforded a striking illustration of the evil of that hasty legislation which was forced on the country without consideration by the operation of the gag rule, which did not permit an *i* to be dotted, or a *t* to be crossed. Under all the circumstances, he did not know that he could go for the repeal, as the bill now stood; for he was unwilling to commit himself with regard to the constitutional question.

The question recurring on Mr. INGERSOLL's motion to amend the motion to commit with instructions—

Mr. ARNOLD moved to strike out that part of the instructions relating to voluntary bankrupts, so that the instructions would read "to report a bankrupt bill including corporations not owned by States."

Mr. BOWNE said: Every member on that floor understood well what was the will of the whole country, as well as that of his constituents, in relation to this question. It had been long before the public; and the public mind, having weighed it in the balance, had, as far as he could understand it, declared it had been found wanting. He was ready to act on it

now, though he confessed he would like to see some little modification of the bill before the House. If he could not get that modification, he would vote for the bill as it was; though he would not vote for a single motion that, in his view, would have a tendency to defeat the measure.

The only modification he wanted to make was a proviso that the repeal shall take effect from the passage of the act, so as to leave all persons who had already commenced the preliminary proceedings of bankruptcy, under the faith of a law of Congress, at liberty to consummate them. There would be great cruelty and injustice in cutting off those who had incurred a heavy expense to obtain the benefits of this law, and who did so under the faith of an act of Congress. With this proviso, he would be perfectly satisfied to vote for the bill before them; though, if he could not get it, he would vote for the bill as it then stood.

Mr. CHARLES BROWN said he was not in so great a hurry to repeal the bankrupt law as many gentlemen seemed to be. He was opposed to its passage, and was still opposed to it as it stood upon the statute-book; and if it could not be amended as he desired, he would vote for its repeal. But, before he voted for its repeal, he was desirous of making a fair and full effort to have embraced within its provisions all the banks and other trading corporations of the country. The operation of the voluntary provisions of the law, as they were called, had been almost unmitigated evil. But it had done its worst; and, if left in full force, could do comparatively but little more evil. It had deranged and destroyed all the long-established relations of debtor and creditor—had invalidated contracts, and released from their obligations all the large and princely debtors. It had afforded an opportunity for thousands to be released from their debts, who, otherwise, would have paid them, and, thereby, enabled those to whom they were indebted, in their turn to pay their debts. This last class—the creditors of those who have taken the benefit of the bankrupt law—have been made bankrupts by its operation; and now, by its repeal, you will leave them without remedy. Was this just? Was that the way the obligation of contracts ought to be maintained? Much, if not all, the opposition in the public mind against the bankrupt law, was owing to its voluntary and retrospective action—its violation of past engagements and existing contracts. But these had already been cancelled by it; and the repeal of the law would not restore these obligations—would not place them in the situation they were before its passage. The evil it had done could not, therefore, be remedied. If it remained in force, it could now only affect contracts made under it, and could do no positive wrong. Many had been made bankrupt by the effects of the law, who, otherwise, would have paid all their debts. He doubted



the policy or justice of making these its victims, and then to deprive them of its remedies by legislation.

Before its passage, every man knew when he incurred a debt what were the penalties for non-payment. All knew what they had a right to expect and demand as creditors, or to give or suffer as debtors; all the debtors and creditors stood upon the same platform. If they repealed the law before all the relations of these parties that have been changed by it have been arranged according to its provisions, manifest injustice would be done to a large portion of them. Those who have been released, have had especial benefits conferred upon them; which especial benefits have bankrupted others, who will be left under all their obligations to others, again, without claims on those who were indebted to them. This was, he said, a great wrong, and one inflicted by the Government.

#### IN SENATE.

WEDNESDAY, December 21.

#### *The Bankrupt Act.*

MR. BENTON presented a petition from Washington county, Vermont, by W. Richardson, praying the repeal of the bankrupt act, and accompanied by a letter to him, stating that the people of Vermont were as unanimous as the Legislature of their State in condemning that act. Mr. B. would take the opportunity which the presentation of this petition offered, to declare that, holding the bankrupt act to be unconstitutional at six different points, (the extinction of the debt without the consent of a given majority of the creditors being at the head of these points,) he would vote for no repeal which would permit the act to continue in force for the trial of depending cases, unless with provisions which would bring the action of the law within the constitution. To say nothing, at present, of other points of unconstitutionality, he limited himself to the abolition of debts without the consent of a given majority of the creditors. This, he held, no power in our country can do. Congress can only go as far as the bankrupt systems of England and other countries go; and that is, to require the consent of a given majority of the creditors (four-fifths in number and value in England and Scotland) and that founded upon a judicial certificate of integrity by the commissioners who examined the case, and approved afterwards by the Lord Chancellor. Upon these principles only could Congress act: upon these principles the Congress of 1800 acted, in making a bankrupt act: and to these principles he would endeavor to conform the action of the present act so long as it might run. He held all the certificates granted by the courts to be null and void; and that the question of the validity would be carried before the courts, and before the tribunal of public opinion. The federal judges decided the alien and

sedition law to be constitutional. The people reversed that decision, and put down the men who held it. This bankrupt act was much more glaringly unconstitutional—much more immoral—and called more loudly upon the people to rise against it. If he was a United States judge, he would decide the act to be unconstitutional. If he was a State court, and one of these certificates of discharge from debts should be pleaded in bar before him, on an action brought for the recovery of the old debt, he would treat the certificate as a nullity, and throw it out of court. If commanded by the Supreme Court, he would resign first. The English law held all bankrupts, whose certificates were not signed by the given majority of the creditors, to be uncertificated; and, as such, he held all these to be who had received certificates under our law. They had no certificate of discharge from a given majority of the creditors; and were, therefore, what the English law called “uncertificated bankrupts.” He said the bankrupt systems formed the creditors into a partnership for the management of the debtor’s estate, and his discharge from debt; and, in this partnership, a given majority acted for the whole, all having the same interest in what was lost or saved; and, therefore, to be governed by a given majority, doing what was best for the whole. But even to this there were limitations. The four-fifths could not release the debt of the remaining fifth, except upon a certificate of integrity from the commissioners who tried the case, and a final approval by the Lord Chancellor. The law made itself party to the discharge, as it does in a case of divorce, and for the sake of good morals; and required the judicial certificate of integrity, without which the release of four-fifths of the creditors could not extinguish the debt of the other fifth. It is only in this way that Congress can act. It can only act according to the established principles of the bankrupt systems. It had no interest or supreme authority over debts. It could not abolish debts as it pleased. It could not confound bankruptcy and insolvency, and so get hold of all debts, and sweep them off as it pleased. All this was despotism, such as only could be looked for in a Government which had no limits, either on its moral or political powers. The attempt to confound insolvency and bankruptcy, and to make Congress supreme over both, was the most daring attack on the constitution, on the State laws, on the rights of property, and on public morals, which the history of Europe or America exhibited. There was no parallel to it in Europe or America. It was repudiation—universal repudiation of all debts—at the will of the debtor. The law was subversive of civil society; and he called upon Congress, the State Legislatures, the Federal and State judiciaries—and, above all, the people—to brand it for unconstitutionality and immorality, and to put it down.

Mr. B. said he had laid down the law, but he would refer to the forms which the wisdom of

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the law provided for executing itself. These forms were the highest evidences of the law. They were framed by men learned in the law—approved by the courts—and studied by the apprentices to the law. They should also be studied by the journeymen—by the professors—and by the ermined judges. In this case, especially, they should be so studied. Bankruptcy was a branch of the law but little studied in our country. The mass of the community were uninformed upon it; and the latitudinarians, who could find no limits to the power of our Government, were daringly presuming upon the general ignorance, by undertaking to confound bankruptcy and insolvency, and claiming for Congress a despotic power over both. This daring attempt must be chastized. Congress must be driven back within the pale of the constitution; and for that purpose, the principles of the bankrupt system must be made known to the people. The forms are one of the best modes of doing this: and here are the forms of a bankrupt's certificate in Great Britain—the country from which our constitution borrowed the system. [Mr. B. then read from Jacobs's Law Dictionary, title Bankruptcy, at the end of the title, the three forms of the certificates which were necessary to release a debtor from his debts.] The first form was that of the commissioners who examined the case, and who certified to the integrity of the bankrupt, and that he had conformed in all particulars to the act. The second form was that of the certificate of four-fifths of his creditors, "allowing him to be discharged from his debts." The third was the certificate of the Lord Chancellor, certifying that notice of these two certificates having been published for twenty-one days in the London Gazette, and no cause being shown to the contrary, the certificates granted by the commissioners and by the creditors were "confirmed." Then, and not till then, could the debtor be discharged from his debts; and with all this, the act of 1800 in the United States perfectly agreed, only taking two-thirds instead of four-fifths of the creditors. Congress could only absolve debts in this way, and that among the proper subjects of a bankrupt law: and the moral sense of the community must revolt against any attempt to do it in any other form. The present act was repudiation—criminal repudiation, as far as any one chose to repudiate—and must be put down by the community.

The memorial was then referred to the Judiciary Committee.

#### *The Oregon Bill.*

Mr. LINN, from the Select Committee on the subject, reported back, with several amendments, the bill for the occupation and settlement of the Territory of Oregon, and for extending portions of the laws of the United States over the same, and for other purposes.

The amendments were ordered to be printed.

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THURSDAY, December 22.

#### *The Oregon Territory.*

The resolution introduced on yesterday by Mr. LINN, came up in order, and was read as follows:

*Resolved*, That the President be requested to inform the Senate of the nature and extent of the "informal communications" which took place between the American Secretary of State and the British special minister, during the late negotiation in Washington city, on the "subject of the claim of the United States and Great Britain to the territory west of the Rocky Mountains," and also to inform the Senate what were the reasons which prevented "any agreement on the subject at present," and which made it "inexpedient to include that subject among the subjects of formal negotiation."

Mr. ARCHER suggested to the Senator from Missouri, that, inasmuch as it might be inconsistent with the public interests that this information should be communicated at this time, it would be better to amend the resolution by inserting the words "if not inconsistent with the public interests." His own opinion was, that the honorable Senator would be nearer to the accomplishment of his purpose by not pressing the passage of the resolution at this time.

Mr. LINN said he considered the suggestion of the honorable Senator exceedingly reasonable. The reason why he had introduced the resolution was, that they might have some information regarding the condition of the Oregon Territory. The negotiations upon that subject had slept for the last twelve or fourteen years. It appeared that some correspondence had taken place, informally, between the Secretary of State and Lord Ashburton; and he felt great anxiety that something positive should be known regarding the course which had been pursued in reference to this subject. Many of our citizens were now going to that Territory, and they were desirous of knowing in what position they were likely to be placed. The claim of the British Government appeared to be in some degree strengthened by lapse of time; and the public feeling in many of the States throughout the valley of the Mississippi generally, and, indeed, throughout the whole United States, demanded that some definite action should take place. We want to know what the British Government are disposed to tolerate us the possession of. That seemed to be the nature of the case; not what we are disposed to assert our right to and to claim, but what they will allow us the possession of. He was of opinion that the resolution would do very well as it was; if, however, the gentleman from Virginia was desirous that it should be modified in accordance with the suggestion he had made, he (Mr. LINN) had not the least objection.

The question was then put on the resolution, and it was adopted.

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Fine on General Jackson.

[27TH CONG.]

*Assumption of State Debts.*

Mr. BENTON's resolution, offered yesterday, was taken up for consideration, and read as follows:

*Resolved*, That the President of the United States be requested to inform the Senate whether the late special minister from Great Britain to the United States made any proposition, informally or otherwise, to the negotiator on the part of the United States, for the assumption or guarantee of the State debts by the Government of the United States to the holders of said debts.

Mr. ARCHER observed that, with regard to the subject of this resolution, he could furnish the Senator from Missouri with as much information as he could obtain from the executive department. As advised, he could assure the Senator that no proposition whatever, or even allusion to the subject of the assumption of the State debts, had been made in the course of the negotiation with this Government. After this answer, he submitted to the Senator from Missouri whether the resolution ought to be adopted by the Senate.

Mr. BENTON was very much pleased with the information given by the Senator from Virginia; but he would prefer having it directly from the Executive. He therefore should urge the adoption of the resolution.

Mr. ARCHER said the answer he had given was advisedly; and he understood from the department itself, that no other answer could be returned by the Executive. He did not think it right to pass a resolution calling upon the department for information already derived from it; he should therefore vote against the adoption of the resolution.

Mr. BENTON called for the yeas and nays; which were ordered, and resulted in the affirmative, as follows:

YEAS.—Messrs. Allen, Barrow, Bayard, Benton, Buchanan, Calhoun, Crafts, Crittenden, Fulton, Henderson, King, Linn, McRoberts, Mangum, Sevier, Smith of Connecticut, Smith of Indiana, Sturgeon, Tappan, Walker, White, Wilcox, Williams, Woodbridge, Woodbury, and Wright—26.

NAYS.—Messrs. Archer, Bates, Berrien, Clayton, Conrad, Evans, Graham, Huntington, Merrick, Miller, Morehead, and Phelps—12.

*Fine on General Jackson.*

The bill introduced by Mr. LINN, to indemnify General Jackson for the fine imposed on him at New Orleans while in the discharge of his official duty, came up for consideration, as in Committee of the Whole; and there being no motion to amend, it was reported to the Senate.

Mr. LINN remarked that he hoped the bill would be ordered to be engrossed for a third reading. If there was to be any discussion on the subject, it could take place upon the third reading. It was his desire that it should be advanced now, and he hoped the Senate would consent to the course he had pointed out.

Mr. CRITTENDEN observed, that it seemed to him there was no good reason for exempting it from the ordinary course of bills passing through the Senate—that of referring it to an appropriate committee. Indeed, it seemed the more necessary that this bill should now take this course, in consequence of the extraordinary manner in which the subject had been recommended to the consideration of Congress in the President's Message. If it is a subject of such importance to the general welfare, as to call for that recommendation, it must surely be one which it is proper should take the ordinary course of being referred, like the other topics of the Message. This is, at all events, a safe course, and one from which he would not exempt this bill. He did not well know—nor, indeed, did he consider it important what committee it should be referred to; but he would suggest that probably the Committee on the Judiciary was the most appropriate.

Mr. LINN said the bill was very simple; it required but few words to express its object; that it clearly did, without the slightest reference to any controverted point; and, therefore, he could not see any reasonable objection to letting it be ordered to be engrossed for a third reading; and then if any gentleman wished to enter into discussion, he would be ready to show why he thought the bill ought to pass. It might, by common consent, now be advanced to that stage, and the discussion might proceed; or, if it was thought more desirable, a day next week might be fixed for debate, and the subject might be so postponed. When he introduced the bill, his only reason for then fixing a day for its consideration as a special order, was to proceed with it in conformity with the course pursued by the Senator from New York (Mr. TALLMADGE) on introducing his exchequer bill, which was made the special order for Tuesday next, without being referred to any committee. He wished this to take the same course, presuming that it required no elaborate report from any committee—and that there could exist no desire to give it unnecessary delay. He would now propose that the bill be ordered to be engrossed for a third reading, and that the discussion be postponed till it came up on its third reading.

Mr. HUNTINGTON objected, that if the course pointed out by his friend from Missouri were adopted, the bill would be placed beyond the stage of reference and amendment, even should it appear in discussion that either were necessary. There was, he thought, one fact not touched upon, which placed the matter in a light somewhat different from that reflected upon it last session. It was well known to the Senate that, when the subject was referred to the Committee on the Judiciary last session, and when the committee returned the bill without a report, it was because the committee had no evidence before it, either documentary, historical, or otherwise, upon which it could base a report. Now the case may be quite differ-

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ent. There may be authentic evidence to lay before the committee; it may be in a condition to advise the Senate, which it did not feel authorized to do last session.

Mr. BAYARD observed, that when this matter was submitted to the Senate at the last session, he felt disposed to return the fine—not on the ground that there was any legal claim on the Government of the United States, but as a matter of courtesy—as an additional acknowledgment of services rendered. It seemed, however, that the gentlemen who advocated the bill were not satisfied with this concession, but that, seeking the absolute exculpation of the General, he and his friends insisted that his course on the occasion in which the fine originated, was perfectly justifiable—that the action of the judge was wrong, and that it is the duty of Congress to refund the fine. And this was the very issue which demanded the amendment of the bill which he had submitted at the last session. The alternative was presented of either giving countenance to an implied approval, or expressly disavowing the intention of passing any opinion; and the Senate preferred the latter course.

Through the kindness of the Senator from Louisiana, (Mr. CONRAD,) he (Mr. B.) was now enabled to refer to more documentary evidence of the grounds of decision in the matter, than was at his disposal last session. He held in his hand a copy of the record of the court, in the handwriting of the clerk of the court, and made out at the time. He had read it carefully, and had come to the conclusion that justice to the court itself—the permanent interests of the people of the United States—required that the matter should stand as it does; and that it comports better with those interests, and the reputation of the distinguished individual in question, that the affair should rest on its present footing.

It is not a light matter for Congress to sanction the idea that the lives of our citizens, their property, and their personal liberty, may, with impunity, be placed at the mercy of a military commander, and a court-martial of his officers, brought together at his summons. He knew very well that there were some very extraordinary notions entertained of *martial law*, which would render a court-martial the mere ministers of the arbitrary will of the commanding officer. Now, he thought he was prepared to show that, by the Constitution of the United States, it is not in the power even of the Congress of the United States, much less of an officer acting under a commission derived from the Federal Government, to declare martial law, affecting every class of the community. Congress may, indeed, suspend the privileges of the writ of *habeas corpus*, but cannot declare martial law to be the law of the United States, or of any part of them. There is a great and glaring error committed in this matter, by confounding these things. Civil law is that law which regulates the rights and duties of citizens

generally. Martial law is a code specially applicable to the army and the navy, and militia when called into actual service, and is a distinct code for their government. Even in time of war, the private citizen, the non-combatant, cannot be subjected to the code which governs those engaged in warfare, without a manifest violation of his civil rights. A person not enlisted in the service of the United States, either in the army or the navy, or in the militia when in actual service, cannot be subjected to the operation of martial law, because Congress could confer no such power. It is limited in its powers. The constitution says, Congress shall have power to declare war, to raise armies, to provide a navy, to provide arms and munitions of war, and to make rules for the government of the land and naval forces. On these limited and specific powers, it has been inferred that Congress may declare martial law. To avoid this very conclusion, there is an express provision in the very next section, among the restrictions on the power of Congress, declaring that the remedy of the writ of *habeas corpus* shall not be suspended, unless in cases of rebellion or invasion.

A state of war, then, authorizes the suspension of the privilege of the writ of *habeas corpus*, which is the sacred instrument of liberty in the hands of the State authorities; but does not give the right of declaring martial law, as applicable to the community generally, subjecting the citizen to a code which is summary in its proceedings, and arbitrary in its judgments. No citizen, unless with his own consent, is amenable to the military code; and that occurs when he enlists in the army or navy, or is called into action as part of the militia. There is an express provision in the 5th article of the amendments to the constitution which guards against such a result, by declaring that "no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger." The only power Government has to establish a code of martial law, is in relation to those who are enlisted in its land and naval forces, including the militia. It is to be regretted that such erroneous notions, avowed in relation to martial law, should prevail in a country boasting of its civil liberty. All Congress can do, even in the cases of war and invasion, is to suspend the privilege of the right of *habeas corpus*; and that can be done by Congress only—not by an officer of the Government without its authority. But that suspension of the writ, although it may leave the individual subject to the inconvenience of temporary restraint, does not subject him to be tried and punished by the military code. If an individual, no matter how high in commission, or how much impelled by necessity, usurps the power, he cannot be said to act rightfully, though he may be excused. A high and im-

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perious necessity may exist, which can alone form his excuse; and whenever such a case is presented, he (Mr. B.) would sustain the officer. Whether such was the fact in the case of General Jackson, should be distinctly settled. And the report of the committee, presenting all the facts of the case, would place the matter on the right footing, and prevent any erroneous conclusions in relation to this question of martial law.

Mr. LINN had not sought to place the bill on any ground different from that on which bills heretofore had been placed for refunding officers in the public service fines incurred, or judgments awarded against them, for official acts done for the benefit of the country. Money paid by them, in compliance with the mandates of the law, had been refunded by Congress; and upon the same ground he placed this bill—that of restoring to the public servant money paid by him for the public good. He had no wish to go any further with the subject than this; and would not, unless compelled by the remarks of others. He had no desire to disturb the question of the constitutionality of the matter. The question was, simply, whether General Jackson shall have the same measure of justice extended to him, which has been extended to other officers of the Government—even to the lowest in grade of your revenue officers. The cases of Generals Brown and Wilkinson, Colonel Purdy, &c., will present themselves at once to the memory of Senators; they being of a high military character. This bill must pass. The American people have willed it. It is not with them a party question. All go for it—Jew and Gentile, Democrat and Whig; and it should be done promptly.

He should repeat, that the friends of this measure had not argued it on the ground of the act for which the fine was incurred being constitutional. He apprehended not one of his friends had taken that position, and that therefore the Senator from Delaware was in error in supposing it was so advocated. The constitutional question was a *reserved question*. The friends of the bill never urged it on that ground; they never said aught about the Judge being right or wrong. There might have been those who disapproved of the course pursued by the Judge, and so condemned it. But, whether they did so or not, it had nothing to do with the bill now before the Senate, which was disconnected from any question of that kind. And, as to the record referred to by the Senator from Delaware, he knew not what it contained; but he hoped the Senator would move to have it printed. Let it come to light, and not be kept floating about in holes and corners. If there is any thing in it of such importance as is supposed, it is right it should be made known—right that the country should see it.

Mr. BUCHANAN had but a few words to say on this subject. The Senator from Delaware

(Mr. BAYARD) had been discharging his heavy artillery against nothing. He had not even a target to aim at. It had never been contended on this floor that a military commander possessed the power, under the Constitution of the United States, to declare martial law. No such principle had ever been asserted on this (the Democratic) side of the House. He had then expressly declared (and the published report of the debate, which he had recently examined, would justify him in this assertion) that we did not contend, strictly speaking, that General Jackson had any constitutional right to declare martial law at New Orleans; but that, as this exercise of power was the only means of saving the city from capture by the enemy, he stood amply justified before his country for the act. We placed the argument not upon the ground of strict constitutional right, but of such an overruling necessity as left General Jackson no alternative between the establishment of martial law, or the sacrifice of New Orleans to the rapine and lust of the British soldiery. On this ground Mr. B. had planted himself firmly at the last session of Congress; and here he intended to remain.

In the history of every nation at war, cases might occur of such extreme and overpowering necessity, that, in order to save the country, a military commander might be compelled to resort to the establishment of martial law. Emergencies might exist, in which he would be guilty of culpable negligence, if he refused to adopt this expedient. This was eminently the position of General Jackson at New Orleans. If, knowing, as he did, that a traitorous correspondence was carried on with the enemy, and that no other means of arresting it existed, he would justly have exposed himself to the severest censure, had he suffered the city to be sacked, rather than save it by declaring martial law. But, in every such case, the commanding general acts upon his own responsibility, and at his own peril; and must afterwards appeal to his country for justification. To that country he had made his appeal, and it had nobly justified his conduct. It was an act of the most heroic patriotism—of the sternest duty. Most fortunate had it been for us, that a man commanded in that city who never shrunk from personal responsibility when his country was in danger.

General Jackson's situation at New Orleans presented the case *par excellence* for such an exercise of power. If we were to search the history of the world for examples—if imagination were permitted to take the widest range, we could not present, or even fancy, a case more strongly justifying, in every particular, the declaration of martial law, than that which existed at New Orleans. All the attendant circumstances are now matters of authentic history. General Jackson was sent to defend our great Western commercial city against the British forces. He was almost destitute of regular soldiers. A few thousand

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raw militia, suddenly brought together, constituted nearly his whole army. All that he had to rely upon was their native but undisciplined courage. He had to organize them, to discipline them, to infuse into them his own indomitable spirit, and then to lead them to battle and to victory.

And what was the condition and character of the enemy against whom he had to contend? The British General commanded a numerous and well-provided army of regulars, in a perfect state of discipline, and flushed with victory over the conquerors of Europe. Such were the fearful odds against General Jackson! We can all remember that, for a time, despair sat on almost every countenance; and we have been informed that when the news of the victory reached Congress, there was such a burst of enthusiastic joy as had never been witnessed before in these halls. This was the effusion of patriotic hearts upon the delivery of their country from fearful and impending danger.

By what means did General Jackson achieve this great and glorious victory?

Louisiana had been a Spanish province but a few years before. Its ancient inhabitants had not become warmly attached to our constitution and laws, as they are at present. Besides, there were many discontented foreigners within the city of New Orleans. Whilst a very large majority of the inhabitants displayed their patriotism and their courage on the field of battle, the city harbored within its bosom a number of traitors, who were in correspondence with the enemy. The General's weakness and his plan of defence were in this manner communicated to the British commander, who was thus instructed in the best mode of attack.

General Jackson was thus placed in a position of awful responsibility. On the one hand, he was aware that the letter of the constitution conferred upon him no authority to declare martial law, whilst, on the other, he knew that the establishment of martial law was the only human means of arresting this traitorous correspondence with the enemy, and saving the city. Before this act was performed, he had consulted the leading inhabitants of New Orleans, who entirely approved the measure.

Suppose General Jackson had refused to establish martial law, and the city had been captured: how could he then have justified his conduct to his country? Could he have said, "I knew there was a band of traitors within the city, who were in correspondence with the enemy; I knew that, in this manner, all my plans for its defence would be defeated; I knew that by declaring martial law, the city could have been saved: I knew all this, but such was my reverence for the letter of the constitution, that, rather than violate it, I determined that New Orleans should be surrendered to the possession and pillage of the enemy! I would not, even for a few days,

restrain the constitutional liberty of the citizens, even to secure the permanent salvation of the city."

No, sir, no. Excusable is not the word. General Jackson stands justified—amply justified—in the judgment of this whole country, for his conduct. This is no party question; at least, so far as I am acquainted with the feelings of the people. Posterity has already decided the question; because more than a quarter of a century has elapsed since the event. The passage of this bill, therefore, is only important as it will embody public sentiment, and place upon the records of the nation the vindication of their General.

Mr. CONRAD presented to the Senate a copy of the record of the trial of General Jackson at New Orleans, which was made out thirty years ago, by the then clerk of the court. It was,

On motion of Mr. LINN, ordered to be printed for the use of the Senate.

The Senate adjourned.

FRIDAY, December 23.

*Assumption of State Debts.*

The PRESIDENT *pro tem.* laid before the Senate a Message from the President of the United States, covering the following communication from the Secretary of State:

DEPARTMENT OF STATE,  
Washington, Dec. 23, 1842.

*To the President:*

The Secretary of State—to whom the President has referred the resolution of the Senate of the 22d instant, in the following words: "That the President of the United States be requested to inform the Senate whether the late special minister from Great Britain to the United States made any proposition, informally or otherwise, to the negotiator on the part of the United States, for the assumption or guarantee of the State debts by the Government of the United States to the holders of said debts"—has the honor to report to the President, that the late special minister from Great Britain to the United States made no proposition, informal or otherwise, to the negotiator on the part of the United States, for the assumption or guarantee of the State debts by the Government of the United States to the holders of said debts.

DANIEL WEBSTER.

On motion of Mr. ARCHER, and by unanimous consent, the communication was ordered to be printed.

The PRESIDENT *pro tem.* laid before the Senate the following communication from the President of the United States:

*To the Senate of the United States:*

I have received the resolution of the 22d inst., requesting me to inform the Senate of the nature and extent of the "informal communications" which took place between the American Secretary of State and the British special minister, during the late negotiation in Washington city, on the "subject of the claim of the United States and Great

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Britain to the territory west of the Rocky Mountains;" and also to inform the Senate what were the reasons which prevented "any agreement on the subject at present," and which made it "expedient to include that subject among the subjects of formal negotiation."

In my message to Congress at the commencement of the present session, in adverting to the territory of the United States on the Pacific Ocean, north of the 42d deg. of north latitude, a part of which is claimed by Great Britain, I recommended that, "in advance of the claims of individual rights to these lands, sound policy dictates that every effort should be resorted to by the two Governments to settle their respective claims;" and also stated that I should not delay to urge on Great Britain the importance of an early settlement. Measures have been already taken, in pursuance of the purpose thus expressed; and under these circumstances, I do not deem it consistent with the public interest to make any communication on the subject.

JOHN TYLER.

WASHINGTON, Dec. 23, 1842.

On motion of Mr. ARCHER, and by unanimous consent, the communication was ordered to be printed.

On motion of Mr. BAYARD, (there being no further business before the Senate,) the Senate proceeded to the consideration of executive business; and, having spent a short time therein, adjourned till Tuesday next.

TUESDAY, December 27.

*The American Squadron.*

The resolution, submitted by Mr. BENTON some days ago, was taken up for consideration: and, after remarks by Mr. ARCHER, it was adopted.

*Fine on General Jackson.*

The bill introduced by Mr. LINN some time since, to indemnify General Jackson for the fine imposed upon him by Judge Hall, at New Orleans, while in the discharge of his official duty, came up on its postponement from Thursday last.

Mr. LINN hoped the bill would now be ordered to be engrossed for a third reading, by acclamation, as had been urged in a memorial presented this day from Pennsylvania by the Senator from Pennsylvania, (Mr. BUCHANAN.)

Mr. CRITTENDEN understood the question of reference was yet pending.

The CHAIR decided that the motion to postpone had superseded the motion to refer.

Mr. CRITTENDEN then renewed his motion to refer the bill to the Committee on the Judiciary.

Mr. LINN asked for the yeas and nays; which were ordered.

The question of reference to the Committee on the Judiciary was then taken by yeas and nays, and resulted in the affirmative, as follows:

YEAS.—Messrs. Archer, Barrow, Bates, Bayard, Clayton, Conrad, Crafts, Crittenden, Evans, Graham,

Henderson, Huntington, Merrick, Miller, Morehead, Phelps, Porter, Simmons, Smith of Indiana, Sprague, Tallmadge, White, and Woodbridge—23.

NAYS.—Messrs. Allen, Benton, Berrien, Buchanan, Fulton, King, Linn, McRoberts, Mangum, Sevier, Smith of Connecticut, Sturgeon, Tappan, Walker, Wilcox, Williams, Woodbury, Wright, and Young—19.

HOUSE OF REPRESENTATIVES.

TUESDAY, December 27.

*The Bankrupt Law.*

The SPEAKER announced the regular order of business to be the bill to repeal the bankrupt act.

The Clerk stated the question as it now stood. The original bill was introduced by Mr. EVERETT, as already published. This Mr. BARNARD had moved to amend, so as to repeal only so much of the bankrupt law as permits voluntary bankruptcy; providing, however, that this act should not affect any case or proceeding in bankruptcy already commenced, or which should be commenced before the 4th day of March next. Mr. CUSHING had moved to amend the amendment, so as to provide that this act should not affect any case or proceeding in bankruptcy commenced before the passage of this act, and, consequently, not to extend it to cases commenced before the 4th of March next. Mr. BRIGGS had moved to commit the bill and all its amendments to the Committee on the Judiciary, with instructions to report a bill to repeal that part of the existing law which authorizes the voluntary application of debtors, and to include corporations which issue paper to circulate as money, within the operation of the bankrupt law. And Mr. CLAY JOHNSON had moved to amend Mr. BRIGGS's amendment, by striking out all the instructions, and inserting instructions to the Judiciary Committee to report, at 12 o'clock to-morrow, the following bill: "That the act passed on the 19th day of August, 1841, entitled 'An act to establish a uniform system of bankruptcy throughout the United States,' be, and the same hereby is, repealed."

Mr. SALTONSTALL, after taking a brief view of the history of the passage of the bankrupt act, and of the constitutional powers and obligations of Congress to pass it, entered into a consideration of the reasons urged for its repeal. It had been said that public opinion demanded its repeal; and the gentleman who introduced the bill was supported by the resolutions of a sovereign State demanding it. He denied, however, that there was any evidence showing that the people demanded the repeal of this law. Where was it shown? There had been no petitions presented calling for it. The Legislatures of the States (with but one exception) had made no move in relation to it; and, if he judged from what he had seen of the public press, there was no evidence there of a desire for the repeal of the act. They had every

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evidence that public opinion was loudly in favor of this law at the time of its passage. It was called for by numerous petitions, coming from every quarter of the country, signed by men of all classes of the community. It was advocated in the public papers, and strongly recommended to the favorable consideration of Congress in the Message of the President of the United States. Mr. S. deprecated the repeal of this law before sufficient time had elapsed to give it a fair trial and examination. He contended that it was now operating most favorably, and that the principal cause for objection to it had nearly passed away. This was the retrospective feature of the bill; but as all (or nearly all) the cases of that class had been acted on, there was now no longer any objection to the bill. In a country like ours, he held that some uniform laws on the subject of bankruptcy should exist. Such laws were just as necessary now, as when the constitutional provision authorizing Congress to pass such laws was adopted; and the very reasons which operated upon the convention for the insertion of this provision, operated now in favor of retaining the present law in force.

Mr. Dawson said: I have not heard a solitary complaint from one of my constituents of my vote in favor of this bill. On the contrary, I have received many grateful acknowledgments in approbation of my course. I have in my drawer a long list of the most respectable names in Louisiana, urging me to oppose the repeal of the bankrupt law. No man in this House would rejoice more than I would to see this bill amended; but I will hold on to it as it is, sooner than see it repealed. I am opposed to the oppression of the debtor, in every shape, form, and manner. Debt is a misfortune; and bitter is the cup of life (Heaven knows) to the unfortunate debtor, at best, without being treated as a *criminal*. I am willing to see the debtor forced to make an honest, full, and unqualified surrender of *all he has*: and then I would *pale* the arm of the Shylock who would attempt to take his pound of flesh. This is the poor man's law; and it stands "solitary and alone," as the poor man's law, in the history of the world. I am the open and avowed advocate of a bankrupt law to benefit debtors, and not a law to benefit creditors *exclusively*. I would not make a retrospective law, to favor or shield the debtor; but I would place him henceforth beyond the reach of personal cruelty and degradation. His property might be seized and sold; the roof that shelters his wife and children from the peltings of the pitiless storm might be taken from him, and they might be turned over to penury and want. But his person, at least, should be sacred. The creditor should not touch a hair of his head, after he had made a fair and honest surrender of every thing he was worth on the face of the earth.

"Man's inhumanity to man  
Makes countless millions mourn;"  
and wise legislation will always defend and

protect the weak, the helpless, the unfortunate, and oppressed. The fate of the bankrupt law is already foretold. I entertain no doubts of its being repealed in a few days. It is the first law that ever was passed—and, I greatly fear, it will be the last—to favor the poor and the unfortunate. It is idle to resist the power of money; to its secret, subtle, and pervading influences, imagination can devise, and strength can accomplish no bar. It will buy the prayers of the church, the fidelity of man, and the love of woman. It is the alpha and omega of all human desires. Reason and justice are impotent when opposed to the magic power of gold.

"Plate sin with gold,  
And the strong lance of Justice hurtless breaks;  
Clothe it in rags, a pigmy's straw doth pierce it!"

Mr. CUSHING rose in opposition to the repeal of the bankrupt law. It should be allowed to remain in force, and be further tested by public judgment. Instead of a hasty and precipitate action, he thought the public interests would be better promoted by modifying the law, so as to exclude voluntary applicants for its benefits, and to include corporations issuing paper for circulation. Let it be modified to suit the views of gentlemen, but not wantonly demolished.

It was true that there were objections to the act in the first place; yet these had been either extenuated, or had lost their force. The main objection to the passage of the law was, that it would operate on contracts made, and would thus affect vested rights. Now, this objection applied with equal force to the repeal of the measure as proposed in the present bill, since many enterprises had been entered into by men acting in reference to its continuance.

The House adjourned.

#### IN SENATE.

THURSDAY, December 29.

#### Quintuple Treaty.

Mr. BENTON submitted the following resolution, which, under the rules, lies one day on the table, viz:

*Resolved*, That, in addition to copies of all the correspondence with and from all our ministers abroad in relation to the quintuple treaty, the President be requested to communicate to the Senate (so far as it may be compatible with the public interest) all such correspondence in relation to the treaty with Great Britain.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, January 3, 1843.

#### General Jackson's Fine.

Mr. BOWNE offered a resolution on this subject, as follows:

*Resolved*, That the Committee on the Judiciary be instructed to report, on Thursday next, the fol-



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lowing bill to refund the fine imposed on General Andrew Jackson at New Orleans.

[The bill was that introduced by Mr. LINN, in the Senate, on the 10th March, 1842, which provided that the proper accounting officers of the Treasury Department be directed to ascertain the amount of the penalty for damages awarded by the district judge of the United States at New Orleans, in the year 1815, against Major-General Andrew Jackson, then commander-in-chief of that district, for official acts in that capacity, and paid by him at that time; and that the sums paid, with interest at 6 per cent. per annum, be paid to Major-General Andrew Jackson, out of any money in the treasury not otherwise appropriated.]

Mr. BOWNE moved the previous question on the adoption of his resolution.

The SPEAKER put the question, and the motion was negatived.

#### *The Bankrupt Law.*

Mr. EVERETT called for the orders of the day.

The SPEAKER announced the order of the day to be the bill to repeal the bankrupt law.

Mr. MARSHALL said he was warned by the experience of last night, that personal debility would prevent him from proceeding, as he could have wished, for the short time the rules of the House allowed him. He should, therefore, yield the floor to any gentleman who wished to address the House on the subject. He was perfectly sure, he added, that the state of his health would not enable him to proceed as he wished.

Mr. MILTON BROWN said his simple and sole object in now rising to address the House, was to say something in regard to the reasons which would induce him to vote against the repeal of the bankrupt law. He voted for that law originally, under the impression that his constituents desired him to do so; and, having no information that they desired its repeal, he voted against that measure at the last session; and, pursuing the same course, he should, for stronger reasons, vote against it now.

Perhaps, in the history of our whole legislation, there never had been a law more misunderstood and more misrepresented than this. Objections have been urged against it, that, he ventured to say, had seldom originated in the law itself, but in the representations of those who raised the objections. It was not his purpose (Mr. B. said) to give this question a party turn; on the contrary, it was his intention to discuss it in connection with the opinions of both the political parties of the country. It would be borne in mind that, before the last presidential election, the passage of a bankrupt law was advocated by gentlemen of both political parties; and even now it would be found that there were very few who object to such a bankrupt law, of itself, though they object to its details. It was said that there were ob-

noxious features in the law which not only ought to be repealed, but that the law itself should be repealed. It was worthy of observation, that the clause in the constitution which gave to Congress the power, and the only power, of passing a bankrupt law, was adopted by nine States to one. At that time a large majority of all parties concurred in the belief that it was a wise provision, and should be acquiesced in by Congress.

To show that both parties, previous to the last presidential election, concurred in the propriety of passing a bankrupt law, he should refer to the fact that there were two bills reported in the Senate, at the same time, from the two political parties in that body; each professing to be the plan of the party who reported it.

But a word or two as to the provisions of this bill, and the reasons given for its repeal. Those reasons had all turned on its retrospective operations. And what did gentlemen propose? To let all its retrospective features stand, and to repeal its prospective features, which every gentleman on that floor professed to believe was right. There were two views to be taken of the operation of that bill: first, its operation as beneficial to the debtors; and, secondly, its operation as affecting creditors. In the discussion of this bill, at the time of its passage, he expressed his apprehension that it would at first be misapprehended and misunderstood by the country; but that if it could withstand the first shock, it would be upheld by the people; and he now deemed it most unwise and impolitic to sweep off that which all agreed was wise and constitutional. Why was this? Was it because, in the desire for political effect, a storm had been raised against one part of the law which it was too late to repeal, that that storm had been turned against that part which was unobjectionable? It was admitted that this law, in its prospective operation, was calculated to do good by preventing fraudulent conveyances and dishonest preferences. One of the greatest evils abroad in this land, was the liberty of the debtor to prefer one creditor to another. Not that honest preference which the law designed; but a preference in favor of a member of the debtor's family—perhaps a son, a brother, or a father. Again: this law was calculated to operate favorably on the morality of the country in another point of view. It was calculated to induce the debtor to give up all he had, in consideration of getting a discharge from all his debts. What was the effect now? A man might be in failing circumstances, with a wife and children dependent upon his exertions; or, by a stroke of adverse fortune, nearly every thing might be swept away from him, and from those who were dependent on him; and, in such circumstances, there was strong temptation which human nature could not always withstand, to withhold something in the hands of a friend for his wife and children. It was wrong, but he confessed

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there was strong mitigation in consideration of what a man must feel who had a wife and children dependent on him. In these two points of view, then, it was calculated to benefit the morals of the country, by cutting off preferences, and inducing the debtor to give up every thing he had, in consideration that he should then have the right to go free. But it was calculated, in its prospective operation, to protect a large class of creditors from the cunning and artifice of the few; for a man might stand by and see a debtor overtrading until (while the mass of the creditors knew nothing of what was going on) a deed of trust was executed, and all his effects were swept from the mass of his creditors into the hands of one who stood by and saw his overtrading. This law, however, stepped in, and said, you shall have no private and confidential relations with the debtor, if misfortune overtakes him, but all creditors shall share alike. Was not this, then, calculated to protect the mass of the creditors from unlawful and unhallowed preferences? Would they not believe, then, if this feature of the law was understood, that the people would feel it to be their interest to preserve it? And did they not also believe that, if it was preserved, it would cut off a most fruitful source of litigation, with which the country was flooded? Go into their courts of justice, and the most fruitful source of litigation would be seen to be in questions of preference, deeds of trust, and mortgages; and after exhausting the property, it perhaps fell into the hands of that creditor who was the least of all entitled to it. It not only did this, but it produced a most fruitful crop of perjuries; and if they desired to cut off the inducement to that class of crimes, it must be by adherence to a simple and equitable proceeding in the division of property, and the cutting off that source of litigation which, in its operation, caused a thousand frauds where but one would exist under this law.

Mr. WELLER rose, and said that he was opposed to the enactment of the present bankrupt law, because he deemed it to be a violation of the constitution, which he had sworn to support. He did not find in that instrument any power given to Congress to enact laws giving to individuals the power to violate their contracts. He held that Congress could exercise no powers but those expressly delegated. If the power to pass a general bankrupt law could be exercised without making the law retrospective, he should have no objection to vote for such a measure.

The present bankrupt law was passed at the extra session, under peculiar circumstances. On one day, it was laid upon the table by a majority of eleven votes. The next day the motion was reconsidered—the majority having determined, when the wine flowed freely the night before, to change their determination. It was found necessary to the passage of another bill—the land distribution bill—that this bankrupt measure should be carried through. The

whole legislation of the extra session was accomplished by contract. Now that the land bill had been practically repealed, those who vote for the bankrupt law, in order to secure its passage, were calling for a repeal of that measure likewise. The cry for the repeal of the bankrupt law was general, and he presumed no one would have the independence to stand up on that floor and say that the popular voice was not in favor of an early repeal. Indeed, it had been pretty generally admitted by all who spoke, that public sentiment was against the law. Let Congress, then, act in accordance with the wishes of the people. The advocates of the law seemed to concede its unpopularity; yet they contended that the people were ignorant, and did not understand the principles of the law!

He then went on to argue that a properly digested bankrupt law, prospective in its character, and including corporations within its provisions, would be beneficial. He admitted that the repeal of the present law would be attended with some hardships; that the declaration of some men to be bankrupt necessarily brought on others; and that the continuance of the law might be productive of some advantages; yet, believing the measure to be unconstitutional, he was bound to vote for its repeal. It was a paramount duty which he owed to the constitution he had sworn to support, to seize the first opportunity to wipe it from the statute-book. He held that this course should be adopted by all who were convinced of the unconstitutionality of the measure, no matter how well they might be convinced of its advantages.

Mr. FERRIS said the bankrupt bill was passed at the time the country was in a state of extraordinary excitement arising from revulsions in commerce, embarrassments in trade, the derangement of the currency, and the desolation and ruin spread over the land from the extravagant speculations and wild projects engendered by the inflation of the paper system. It passed in its present unconstitutional and objectionable form, in which the rights of creditors were totally disregarded, and the obligation of contracts violated, by the most powerful and eloquent appeals to the passions, by which reason was dethroned, and sympathy substituted for judgment. The prominent constitutional objections then urged against the bankrupt law, were, that it was not such a bankrupt law as was authorized by the constitution, inasmuch as it was retrospective in its operation, and violated existing contracts; that this part of the law came within the spirit, if not within the express letter, of the prohibition against the passage of *ex post facto* laws; that it was voluntary, and the proceedings might be commenced by the debtor, without the actual assent or concurrence of the creditors, or any part of them; and that it extended to all persons, instead of being confined in its operations to traders. It was also urged that the law was

inexpedient; that it held out temptations for fraud and perjury; destroyed confidence between man and man; and that, while it held out relief to the unfortunate, imprudent, or profligate, it carried desolation to the homes of the industrious, prudent, economical, and substantial part of the community. In vain it was urged that it would be better to allow the unfortunate to resort to the State insolvent laws, and to a compromise with creditors—which is seldom refused to men who make a fair exposé of their affairs—than to afford them relief, by inflicting on the community evils of such magnitude and danger as would result from an unconstitutional and badly organized bankrupt law; that it was better even that individuals should suffer the consequence of their own extravagance, folly, or imprudence, than that the constitution should be trampled upon, and the rights of the citizens violated, to accomplish the relief which the bankrupt law was intended to afford. The bankrupt law was passed; and experience has shown the evils resulting from it: and, so far as I can form an opinion, the people call for its repeal. It has been said that a bankrupt law was absolutely essential to the prosperity of a commercial country. This is not warranted by the past experience of our own country. For a period of near forty years between the repeal of the first and the passage of the second bankrupt law, this country had enjoyed an unexampled state of prosperity. Her commerce whitened every sea, and the enterprise of her citizens penetrated the most remote elimes. No nation of the same population had, during that time, advanced to prosperity and greatness with more rapid strides, or whose commercial transactions were more extensive or various: yet all this was accomplished without a bankrupt law; and the unfortunate found relief in a compromise with creditors, or the State insolvent laws.

We have had, since the organization of the Government, two bankrupt laws: the first bankrupt law, passed soon after the formation of the Government, was a regular constitutional English bankrupt law, and was confined in its operation to traders. It was severe in its provisions, and coercive in its character. It was made in conformity with the constitution, and in the spirit and policy of a bankrupt law which in its origin and formation was intended to afford to creditors a means of relief against fraudulent or defaulting debtors, by coercing the debtor, in the commission of an act of bankruptcy, to deliver up all his estate for the benefit of his creditors; and in its improved organization, it extended relief to unfortunate traders, as such persons were liable, from contingencies against which human prudence could not guard, to sudden losses and misfortunes. But it was never intended by the bankrupt law to extend to all persons relief from the effects of their own voluntary imprudence or extravagance, to encourage the contracting of debts and obliga-

tions, without the means of payment or performing them. This first bankrupt law was severe and searching in its provisions, and was calculated to secure creditors, and reach the fraudulent, nevertheless. It became unpopular; and, although it was limited in its duration to five years, it was repealed in less than three years, in obedience to the voice of the people, loudly expressed in all parts of the country.

We have recently had the experience of a bankrupt law of a different description—a law which was so framed, that the debtor could, on his own application, be discharged from his liabilities without the assent of his creditors, and in absolute violation of their rights, and his own contract, solemnly and voluntarily entered into; and notwithstanding its advent was hailed with so much enthusiasm, it has inflicted injuries on the country incomparably greater than any benefits it has conferred; and now, in the short space of one year, its repeal is loudly called for from all parts of our widely-extended country. Thus both experiments have failed; and it must be manifest that the difficulties of making a bankrupt law which is calculated to prevent fraud, while it relieves from oppression, are almost insurmountable. In England, from the first formation of a bankrupt law, under Henry VIII., to the present time, there have been constant and repeated efforts to improve the bankrupt law. There appears to have been a conflict between the Legislature and those disposed to commit frauds under the law—the one passing provisions against practices of a fraudulent character; and the other seeking to elude them. The bankrupt law was revised in the reign of George IV.; improved in the reign of William IV.; and Queen Victoria has issued a commission to inquire into the measures necessary to improve the bankrupt law. So productive of fraud and iniquity have been the English bankrupt laws, that some of her best statesmen and jurists—and among the rest, Lord Eldon—have lamented their existence. And here let me observe, that one great objection to the retention of the involuntary portion of the bankrupt law is, that persons disposed to act fraudulently, after arranging their affairs to suit their purposes, obtain some friend to commence proceedings against them—apparently hostile, but in reality to aid the bankrupt fraudulently to obtain a release from his creditors; and the check to this fraud in the English law, which does not exist in the law (and which it is not probable will be incorporated into its provisions) now under consideration, is a provision requiring a large part of the creditors—I believe four-fifths of all the creditors of the bankrupt—to assent in writing to his discharge.

An objection has been urged in this debate against the repeal of the bill, of an extraordinary character. It is said that the bill has discharged many persons from their debts, and that, by so doing, it has swept away the assets of solvent debtors, and placed them in a state

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of bankruptcy; and it is urged that the law should be continued for their relief. It may be recollected that this was one of the fatal results which was predicated from the passage of the bill. It was then said, You propose relief by releasing one part of the community from their debts and obligations, and by depriving another portion of the community of their rights and property; you propose to relieve the insolvents, by bankrupting their creditors—to benefit one part of society by ruining the other part; and here is an argument based upon the assertion that all these results have been fully verified. If this argument prevails, the bankrupt law must be perpetual, because it will be continually producing the same effects; and if it has made bankrupts by its past operation, what will prevent the like causes from producing like effects by its future operation? Is it not better to check the evil by immediately repealing this bill, thereby restoring confidence between man and man, and proclaiming to the community that those who contract obligations must perform them, and that those who confide their property on the faith of contracts shall have the legal means of enforcing them?

The House adjourned.

## IN SENATE.

WEDNESDAY, January 4.

*Warehousing System.*

Mr. WRIGHT said that some days ago he presented a memorial from the Chamber of Commerce of New York city, on the subject of the warehousing system, and proposed to refer it to the Committee on Finance; and that motion, at the solicitation of the Senator from Connecticut, and by his consent, was postponed until Senators might have an opportunity to read the memorial, (which was ordered to be printed,) and enable them to vote understandingly on the question of reference. The proposition to resume the subject had been delayed, that certain Senators who were absent might return to their places, and vote on the question. He now moved to take up the memorial, with a view to its reference. He would merely make the motion, for he did not desire to occupy the attention of the Senate, under the conviction of his own mind that the warehousing system, however arranged, must be, in the business of Congress, a financial system, and not one of commercial regulation. He was confident that, if Senators had read the memorial, they would agree with him that the memorialists viewed the question as one of finance, and which only incidentally affected the commerce of the country.

Mr. HUNTINGTON said that the motion to refer this memorial, which was made some days since, was postponed, at his request, with a view to examine the memorial in connection with the proposed reference, for the purpose

of enabling him to see whether there was any thing in it that, with propriety, might be made a subject of reference to the Committee on Finance. The perusal by him of the document, so far from changing his opinion expressed to the Senate, that the subject was primarily and principally one of commercial regulation, and not of finance, had but confirmed it. It would be seen that the warehousing system, as argued in this memorial, was one principally to increase the trade of the country, to benefit the importing interests—to give to the importers and the factor the benefits that, under the cash system of duties, they do not now enjoy—the benefits of such a credit system as was afforded by means of dock-warrants. He contended that the object of the warehousing system, as stated in the memorial, was to build up the commercial marine of the United States.

Mr. H. spoke at some length upon the subject of the English warehousing system, which, though it was characterized as a liberal one, took care to carry out one principle—that of securing a home market at the expense of all other commercial countries. He then viewed the system as proposed by the memorial, as one to benefit merchants of small means, and to counteract the bad effect of the present system of cash duties, which gave a monopoly in trade to large capitalists.

Messrs. WRIGHT and KING spoke at some length upon the subject, maintaining that the warehousing system was one pre-eminently of finance—especially so, as it might have the tendency to withhold from the treasury, for the present, some portions of the revenue which were indispensably necessary to carry on the operations of Government. They argued, that, so far as the system went either to increase or diminish the present amount of revenues, it was a question of finance; and that it would have the effect to diminish them, it was very probable. They, therefore, thought there could be no doubt as to the propriety of referring the memorial to the Committee on Finance.

Mr. WRIGHT demanded the yeas and nays on the question of reference to the Committee on Finance, which were ordered; and the question being put, it was decided in the negative—yeas 17, nays 27.

On motion of Mr. HUNTINGTON, the memorial was then referred to the Committee on Commerce.

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The bill providing for the occupation and settlement of the Territory of Oregon, was taken up.

The CHAIR stated that the question pending was on concurring with the amendments made in Committee of the Whole.

The amendments were all concurred in; and the bill was ordered to be engrossed for a third reading.

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## HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 4.

*General Jackson's Fine.*

Mr. BOWNE again submitted the resolution on this subject, which he offered yesterday, as published in the Globe Congressional reports.

Mr. ARNOLD presumed the principal motive with gentlemen who brought forward bills and resolutions on this subject, was, that they might make a harangue in favor of the Old Hero. He would, therefore, move to refer the resolution to the Committee of the Whole on the state of the Union, where there was already a bill pending on this very subject.

Mr. BOWNE did not wish, on this question, to trust himself at all in making an answer to charges like those which had emanated from the member from Tennessee, (Mr. ARNOLD,) farther than to say, that gentlemen who were the most ready to impute motives of this description to others, are most apt to entertain them themselves. The motion of the gentleman from Tennessee would most certainly be liable to the objections of his colleague, (Mr. BARNARD;) for it would not be taking the ordinary incipient steps of legislation. His resolution, however, did not conflict with the usual course of legislation. It proposed to instruct the Committee on the Judiciary to bring in a bill on Thursday next; and when that bill came in, it would, of course, take the ordinary channel of legislation. His colleague was mistaken in supposing there was no precedent for the resolution he offered. His recollection informed him that at the last session there was a resolution passed, instructing the Judiciary Committee to report a given bill, (the bill to repeal the bankrupt act;) in consequence of which, that committee did report the bill; and it was in this way brought summarily before the House. His only desire (Mr. B. said) was to have this bill—which he deemed the best one—brought at once before the House, so that there might be a chance of acting on it at the present session. It must be remembered that more than one-third of the session was already gone; and therefore, if they expected to pass a bill on this subject at the present session, it must be brought speedily before the House.

Mr. BARNARD then offered the following amendment:

To report to the House, with all convenient despatch, the principal and material facts in relation to the fine imposed on General Andrew Jackson at New Orleans by Judge Hall, and the opinion of said committee upon the material questions of law involved in the imposition of such fine, and the acts leading thereto.

Mr. BOWNE remarked, that, should the course proposed by his colleague be adopted, the matter would stand just where it did now. A report had already been made, accompanying the bill which was reported.

Mr. MERIWETHER said it was many years ago

when the fine was imposed. During the long period which had elapsed, the Democratic party had often had a majority in Congress, and made no effort to have the fine refunded. Now, he wished to help to do that which they had been too modest to bring about. They would have a majority in the next Congress; and as he presumed they would be again too modest, there was a greater necessity for having the fine returned by the present. For himself, he was willing to return the fine, with interest; not because General Jackson ought to have it—not because the imprisonment of Judge Hall was right—but because he believed the motives of General Jackson to be pure. He wished to do that which the friends of the General would not themselves do for their chief. He wished the committee to report the facts, and to show that censure of Judge Hall was not implied.

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Mr. EVERETT called up the orders of the day—the bill to repeal the bankrupt law.

Mr. PICKENS went on to argue against the principle of voluntary bankruptcy in the present law. He knew that it had been said that there was but little difference between an insolvent law and a bankrupt law, and the opinion of the Attorney-General had been given in support of this assumption; but Mr. P. contended that there was a broad distinction between them. The insolvent law was intended for the benefit of the debtor; while the bankrupt law was intended for the benefit of the creditor, and to provide that the assets of his debtor should be paid over for his use. Now, when a bankrupt law contained within it the voluntary principle of bankruptcy, allowing the debtor at his option to relieve himself from his obligations to his creditors, it was nothing but an insolvent law, and, therefore, entirely out of the meaning of the clause in the constitution referred to. He would, therefore, make the act, if he passed one at all, in strict conformity with the meaning of bankruptcy, as it was understood at the time the provision on the subject was inserted in the constitution: the meaning of bankruptcy, as laid down in Blackstone, was precisely the one that he should be governed by. He thought that the present law was unconstitutional; because it clearly interfered with existing contracts, and was clearly an *ex post facto* law; and he held that gentlemen who supported it were bound to argue that Congress had a right to interfere with contracts, and make an *ex post facto* law. In fact, a gentleman at the last session did take such grounds; and what was his argument? Why, that Congress could interfere with contracts, because the power was prohibited to the States. This was a perfect solecism, and an argument he never expected to have heard. He had thought that this was a Government of limited powers, and confined within the provisions of a written constitution. But, if such doctrines prevailed, it would sweep within the power of the Federal Government

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all the contracts within the country, all the relations between debtor and creditor, and nearly all the transactions of private life. Were gentlemen aware of the tremendous powers they claimed for the Federal Government, by adopting such an argument as this? Credit and confidence between man and man would be broken up. No man would trust his neighbor; and all business would be destroyed, if it should be decided that the Federal Government could step in and interfere with contracts, releasing the debtor from the obligations he had entered into, and thereby depriving the creditor of a portion of his property. If gentlemen took it on this ground, they were compelled to take the argument that this Government can interfere with contracts, and pass *ex post facto* laws. It was a power that would shake the very foundations of civilized society; and, of course, it was not granted to this Government by the framers of the constitution. It was on this ground principally that he was in favor of a repeal of the law. It had been argued that it should be retained, because all the harm that could be done under it had been done already, and that there were numbers who, having been driven into bankruptcy by it, were now, in justice, entitled to its benefits. Much had been said to excite the commiseration of the House for this class of unfortunate persons. Though he loved the attribute of mercy, he was still bound to do justice. He would not do evil that good might follow. He was for doing equal and exact justice to all, and would not, for the sake of indulging in the kindly feelings of his nature, trample on the constitution of his country. Mr. P. next went into an argument against the proposition of the gentleman from New York, to include banks and other corporations in the provisions of the bankrupt law. He asked if the gentleman had reflected on the alarming consequences that would follow the successful termination of his motion. What, he asked, would be left to the States, if this proposition should be carried into effect? Their churches, their railroads, their school corporations, and private chartered companies of every description, would be swept away. He was as much opposed to banks as any gentleman on that floor, and had assailed them with all the energies of which he was capable, when other gentlemen, who were now so ready to attack them, quailed under their power. He was utterly and irreconcilably opposed to them; but he would not, for the sake of getting at them, sweep away that noble instrument, on which our liberties rest. Look at Alabama, whose State Bank is a part of her financial system. Look at South Carolina, which was largely interested in her banks. Would gentlemen have these to be placed at the mercy of the Northern and Eastern banks, to sue out commissions of bankruptcy against them, and drag them down to ruin? What would be the effect of such a provision on the banks of the South and South-west? Exchanges were gen-

erally against them, and in favor of the Northern and North-eastern banks, and they would be placed at the feet of New York and New England. The provision the gentleman sought to introduce would be, in effect, a tremendous Bank of the United States, with branches in the North and East, having the power to ruin the Southern banks at their pleasure. Having said all that he intended to say on the bill before the House, he would now briefly touch on the incidental subject that had been brought forward in the debate.

THURSDAY, January 5.

General Jackson's Fines.

The House resumed the consideration of the resolution of the gentleman from New York, (Mr. BOWNE,) directing the Committee of the Whole to report the bill to refund the fine imposed on Gen. Andrew Jackson in 1815, together with an amendment thereto by the gentleman from New York, (Mr. BARNARD.)

Mr. GWIN said that the gentleman from Georgia (Mr. MERIWETHER) had declared his intention to vote for the bill to repay, with interest, the fine imposed on General Jackson at New Orleans, by Judge Hall. The gentleman also invoked action on the bill this session. He (Mr. G.) was glad to hear that the gentleman from Georgia would not only vote for the bill, but urge early action upon it. He hoped the gentleman's zeal would not abate under the influence of party drill; for such certainly were not the feelings or intentions of his party associates on this floor. He (Mr. G.) was of opinion that the dominant party in this House intended to give the go-by to the bill; and, for that reason, he had urged the gentleman from New York (Mr. BOWNE) to introduce the resolution now under discussion. It was a resolution of instruction, which could, by a call of the yeas and nays, test the sense of the House whether there should be action on this subject this session or not. His reason for believing that no action would be had on the bill this session, was founded upon the manner in which the go-by was given to it at the last session of Congress. The subject had been referred to the Judiciary Committee at an early period of the session. Before action could be had upon it in committee, a member from Ohio (Mr. MEDILL) had to move instructions, by a resolution similar to the one now under consideration. The resolution was not adopted; but it brought the bill out of committee, and it was referred to the Committee of the Whole. There it was permitted to sleep for three months. At length, after every important public bill had been disposed of, he (Mr. G.) had tried, from day to day, to get this bill up in committee for consideration; but the majority pertinaciously refused to take it up. He at length, to test the sense of the House, moved to make it the special order, and called the yeas

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and nays. A majority of the members present voted to make it the special order; but not two-thirds, as required by the rule; and his motion was lost. But in five minutes, (the House having resolved itself into a Committee of the Whole,) he was able to catch the chairman's eye, and moved to take up the bill. The majority on yeas and nays, that had existed but a few minutes before, suddenly vanished, when the only test of their sincerity was a vote by tellers; and he failed to get it off the table. Well, sir, how stands the question now? The President has recommended to Congress to pass a bill refunding that money to General Jackson. Instead of referring that portion of the Message to the Committee of the Whole, (where the bill of the last session now is,) it was, by a party vote, referred to the Judiciary Committee. What had been the action of the committee on the subject he had no means of knowing. He had inquired of a member of the committee, and learned that it was in the keeping of a member now absent from the city, and there was no telling when the committee would act upon it. Under these circumstances, the subject had been brought before the House in its present form, to ascertain whether it was the wish of a majority to consider the subject this session, or to give it the go-by, as was done at the last.

Mr. CUSHING said he had regretted to perceive, in the course of the conversation, rather than the debate, which had taken place on this subject, the least possible indications of any tendency to refer this question to party or personal controversies. He equally regretted to perceive mere technical questions—he meant questions appertaining to legal disputes which had occurred in Louisiana at the time of these incidents—that they should in like manner be deemed material to the question which arose on this bill, or the resolution of the gentleman from New York, (Mr. BOWNE.) He thought the question invoked the House to regard it under an aspect far more interesting to them, and with reference to considerations which he should hope would preclude division in that House, and lead to unanimity of opinion on the subject of the bill. He could not but recall to mind that they were then on the eve of the anniversary of that victory of New Orleans—one of the greatest events in the history of our country; and which (whatever might be the differences of opinion in regard to personal incidents in the event—whatever questions there might be in regard to the political views of him who was the hero of that day) was an event which covers the name of our country with imperishable laurels; and he would it were possible for that House and for that Congress (if that bill were to be passed, as he hoped it would) to cast aside all the lesser considerations on which he had touched, to take up the bill in Committee of the Whole, to pass it, and to make the anniversary of the victory of New Orleans a day to be sanctified, in the action of

this House, by a restoration of the amount of that fine to Andrew Jackson. [Cries of "Good!"] And he intended to propose to the House (if they were ready to welcome and act on such a proposition) a method by which the subject might be accomplished; for there were many of them there—it might be a majority of that House—who had had occasion to condemn certain of the administrative acts of that individual. But he had ceased to be the President of the United States—he was no longer the director of the Administration of this country—he had passed from the theatre of public action here, to be a historical personage, not only in this country, but in the eyes of the world.

Mr. ADAMS proceeded to comment on remarks which had been made in relation to this bill not being a party measure, and pointed to the debates and proceedings in the Senate of the United States, and in State Legislatures, to show that the opposite of that assertion was the truth; particularly referring to the prime mover on this subject in the Legislature of New York, (Maj. Davezac,) who was neither Anglo-Saxon, Anglo-Irish, nor Anglo-Scottish; but a protégé of General Jackson, of French origin, who introduced it as a Democratic measure, and as one of the first fruits of the Democratic triumph in the State of New York. He hoped this measure would not be allowed to pass in this House without a thorough discussion, even if it did transcend "the glorious 8th of January," which this year (his colleague had forgotten to notice) was a day devoted to the worship and service of God; and, therefore, it was one on which this House would not be in session. But God forbid that he should say a word in disparagement of that day, or of the person to be honored and profited by this donation. If, however, a proposition was brought before this House to make a present to Andrew Jackson of \$1,000, as proposed by the bill which had been reported to that House, with interest on it from the month of March, 1815, there was but one consideration that would induce him to vote against it—and that was, he should not like to set the example of pensioning an ex-President of the United States, for that was the principle on which this bill was to be passed, if passed at all. The real object was to make a present to General Jackson in his latter days. He did not know what his circumstances were, [A voice: "Rich enough;"] but if they were such as to require it, (though he would not grant it as a pension or a gratuity for that service,) he would do what had been done before—he would make up a subscription among the members of Congress to make a present to the old man in his last days. It had been done before, and there was no disgrace in it; and if it were now done, that a donation might be made to General Andrew Jackson, he, for one, would take his share of it.

But he could not consent to employ the public money, in order to testify the approbation

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of the people of this country of those acts for which the sum of \$1,000 was levied on him by the regular officers of the law, which he had violated in its tenderest parts. His colleague had changed entirely the issue upon the question in this bill. It was not to refund the fine imposed on the General for his imprisonment of a judge—for his causing a citizen of the United States to be jeopardized in his liberty and life, and for other acts subversive of law and justice; but for glorifying the battle of New Orleans. The gentleman from Mississippi (Mr. GWIN) had stated a number of facts in the pamphlet lately published on this subject, which were contradicted by General Jackson. If a bill were to pass, giving General Jackson money upon disputed facts, these facts should be previously cleared up. But he was speaking of the extraordinary circumstances under which this bill could be brought forward. A bill on the same subject was acted on in the Senate at the last session, and, after being amended, so as to comprehend clearly the facts of the case, it was rejected by General Jackson's friends, because it did not contain a condemnation of the judge who imposed the fine; and, if he was not mistaken, he had seen a letter from General Jackson himself, in which he says that he would not have received a dollar unless the character of the judge was blasted. Such was the history of that proceeding of the last session of Congress. The bill was actually passed, or would have been passed; but was rejected by the General's friends coinciding with him, insisting that not only his character should be justified, but the character of the judge blasted. It was a very grave and serious question with him, whether the character of the judge should be censured and condemned by the Representatives of the people of this nation, for the purpose of making a donation to General Jackson. Perhaps he might express himself more strongly by saying that the bill ought not to pass; that if we are to give this donation to General Jackson, it was not by casting reproach upon a just and honorable judge, that we should do justice and vindicate the honor and glory of the country. Again: what were the grounds on which his colleague was pressing this bill? Why, the great and glorious victory of New Orleans. Because we whipped the British, that nobody else could whip—because of this great and glorious victory, this bill must be passed. That was the reason given by his colleague, and that was the reason why he wished the bill passed on the anniversary of the victory. That was not the question of justice involved in this grant—this donation. The victory of New Orleans undoubtedly was a great and glorious one, in which he took a just pride; but he could not, on account of that victory, sanction the ~~acts~~ alluded to in the Kentucky pamphlet, and which were there designated as treason. This reminded him of an anecdote he had heard many years ago of General Arnold, a man very celebrated in our revolutionary history. After

his exploits here, Arnold went to England; and finding himself generally shunned there, he sought the society of the Americans whom he found in that country. Being in company with one of them whom he had known in this country, he asked him what the Americans would have done with him, had they caught him instead of Andre. The American answered him by saying, "We would have buried with the honors of war the leg that was mutilated in our service, and then we would have hung the remainder of your body." He should think that this sort of justice would be rather more complete than that of his colleague, who was for rewarding General Jackson for the battle of New Orleans, at the expense of law and justice. He wished to have this matter fully discussed when it came up, and deliberated on without any of your gag-laws, to stop the investigation of the principles involved in it.

Mr. CUSHING moved that the House resolve itself into Committee of the Whole.

Mr. CAVE JOHNSON called for the yeas and nays; which were ordered, and resulted in deciding the question in the negative—yeas 100, nays 106.

## IN SENATE.

MONDAY, JANUARY 9.

*The Oregon Territory.*

Mr. LINN's bill for the occupation and settlement of the Territory of Oregon, came up as the postponed business of last week, appointed for further consideration on this day.

Mr. CALHOUN inquired what was the pending question.

The CHAIR said it was on the passage of the bill. It had been read a third time.

Mr. CALHOUN observed that he had been greatly gratified to learn that the Senator from Missouri, who introduced this bill, disclaimed any intention that its provisions should conflict with the provisions of our treaties with Great Britain. It was for the purpose of obtaining time to compare these provisions, and to satisfy himself that they did not conflict, that he had asked a postponement of the bill to this day. He had since examined both the provisions of the bill and of the treaties in relation to the North-west Territory; and the result of his investigation was, that there was one provision in the bill which would conflict with the existing treaty with Great Britain in relation to this very territory. He alluded to the provision granting lands to settlers, which he read from the bill. To show in what respect this conflicted with the treaty, he should first take a review of the grounds on which both countries lay claim to the territory, and then the provisions of the adjustment by treaty, which must govern the action of both.

Here Mr. C. made a clear and precise statement of the three grounds upon which the United States Government sustains its title:



first, of discovery by Captain Gray of the mouth of the Columbia River, and then by Lewis and Clark of its source; next, by its transferred right to the Spanish title to the north-west coast; and, thirdly, to the transferred title and claims of France, through its extension of the Louisiana territory. He also stated the grounds upon which England based her claims, which were two: first, under the treaty with Spain, in 1790; and next, with regard to the Columbia River, by priority of discovery of the country tributary to that river. These conflicting claims had been the subject of negotiation, and by the treaty of 1818, it was agreed between Great Britain and the United States that the territory should be open to the subjects of Great Britain and citizens of the United States for ten years. In 1827 the treaty was renewed, leaving it optional with either country to discontinue its obligations upon giving the other a year's notice. He pointed out that the British Government merely claimed for its subjects the equal right of settlement and occupation of the territory with the citizens of the United States; and the Government of the United States insisted on its exclusive right of occupation, settlement, and jurisdiction. He also deduced, from the review of the whole case, that any provision of this bill undertaking to secure to a settler any part of the land which he should occupy for five years, would be in conflict with the spirit and meaning of the treaty. For this reason, and also for another reason—namely, that it might be necessary to investigate whether the manner in which it is proposed to extend jurisdiction over the territory is reconcilable with the provisions of the treaty, and the interpretation of it by the British Government as exemplified in its acts of Parliament—he thought it desirable the bill should be committed to the Committee on the Judiciary, or the Committee on Foreign Relations.

Mr. LINN replied, acknowledging that the Senator from South Carolina had correctly stated the claims of the two Governments, and the position in which they stood with regard to the treaty of 1818, renewed in 1827, and requiring one year's notice of discontinuance. He denied, however, that the Senator's deductions were correct—first, that the promise of this bill to make a grant of lands to the settlers, was in conflict with the treaty; and, next, that there could be any question of the right of the United States to extend our jurisdiction over our citizens residing in the territory. The object of the bill was to encourage emigration, by an assurance to those emigrating that they should have the benefit of the jurisdiction of our laws, and the security of their settlements. Without these encouragements, there would be no emigration of our citizens, and England would be left to occupy the whole country, through the agency of her Hudson's Bay Company. Through that agency, she was daily settling down her subjects—taking possession

of, and occupying for all practical purposes, the choicest portions of the territory.

Through the same agency, she had extended to those settlers the protection of the British laws. We asked, by this bill, to do nothing more than Great Britain had done. If she interpreted the treaty to her advantage, we surely are entitled to make use of her interpretation to our advantage. But he did not want either the example or dictation of Great Britain in this matter. He took ground upon the indefeasible right of the United States to the territory, and to our indisputable right to extend the jurisdiction of this Government to our citizens within our territory.

Mr. CHOATE was sorry that he was obliged to concur with the Senator from South Carolina, that there was one objection fatal to the provision in the bill making a grant of lands to settlers. He said sorry; because he was entirely favorable to the bill itself, and approved of the objects and purposes proposed by it. On due examination of the existing treaty, he was constrained to say that, to grant away, or to secure a settlement, (which amounted to the same thing,) would be to exercise an ownership, contrary to the spirit of the treaty, according to which every portion of the territory is to be left open to the citizens of both Governments. The obligation not to exercise exclusive jurisdiction or ownership by either party, was implied in the obligation to leave the country free and open to the mutual occupation and settlement of the citizens of both. There was nothing in this view of the treaty conflicting with the extension of the British laws to the subjects of Great Britain residing in the territory; nor would there be in the extension of the jurisdiction of the laws of the United States, in the same manner, over our citizens residing there. There would be mutual jurisdiction; but mutual occupation could not be reconciled with an undertaking on our part to secure locations to our settlers.

Mr. LINN observed, that Congress had, at all events, made some progress in this matter. It was now admitted in Congress that there may be mutual occupation and jurisdiction, without cause of offence to Great Britain. As Great Britain had extended her laws over the territory, so may we extend ours. As she had built forts and made settlements, so may we. She is either to set us the example, or dictate to us what we may do. Now, he would pay no regard to the dictation of Great Britain. He maintained our right to the territory over which we proposed to extend our jurisdiction and our population, and it was on this right he based the present bill. There was nothing in it to conflict with any obligation of the United States.

After a few remarks from MESSRS. CHOATE, HENDERSON, and BAYARD,

The Senate adjourned.

[52d Sess.]

*Fine on General Jackson.*

[JANUARY, 1843.]

## HOUSE OF REPRESENTATIVES.

MONDAY, January 9.

*Plan of the Exchequer.*

Mr. FILLMORE, on leave, made a report from the Committee of Ways and Means, on the plan of an exchequer presented by the Secretary of the Treasury, and recommended by the President of the United States, concluding with the following resolution, which, Mr. F. said, was unanimously adopted:

*Resolved*, That the plan of an exchequer presented to Congress by the Secretary of the Treasury at the last session, and entitled "A bill amendatory of the several acts establishing the Treasury Department," ought not to be adopted.

Mr. ATHERTON asked leave, and presented a report on the same subject, from the minority of the committee, concluding with the following amendment, which he said he was instructed by them to offer:

And that the Committee of Ways and Means be instructed to bring in a bill regulating the collection, safekeeping, transfer, and disbursement of the public money, in such a manner as shall, as far as possible, substitute provisions of law for executive discretion in the management of the finances, shall prevent the moneys of the people from being used for purposes of private speculation and emolument, and shall render the Government independent of the agency and influence of moneyed corporations.

Mr. FILLMORE said he was instructed by the committee to move the printing of the report, and he would include in his motion the report and amendment of the minority. He would further move that 10,000 copies of both reports be printed.

The question was then taken on Mr. FILLMORE's motion to print the two reports, and carried; leaving the motion to print the extra number of copies open.

On motion by Mr. WM. W. LEWIN,  
The House adjourned.

## IN SENATE.

TUESDAY, January 10.

*Fine on General Jackson.*

Mr. BERRIEN, from the Committee on the Judiciary, to whom was referred "A bill to indemnify Major-General Andrew Jackson for damage sustained in the discharge of his official duty," made the following report:

"The Committee on the Judiciary, to whom was referred the bill to indemnify Major-General Andrew Jackson for damage sustained in the discharge of his official duty, beg leave to submit the following report:

"This bill has been referred to the Committee on the Judiciary, after having been made a special order in the Senate, and after having undergone discussion there. It has been so referred generally, and without specifying the particular points

of inquiry, which were contemplated by the Senate in ordering the reference. The whole subject having been thus referred to their examination, with all the interesting questions which it includes, perhaps it may be considered to be the duty of the committee, as the organ of the Senate in the preparatory examination of legal subjects, to examine and report on those connected with the object of this reference.

"Yet, in the absence of any specific instructions from the Senate, and looking to the discussions which have led to the reference of the bill, the committee have come to the conclusion that they will best fulfil their duty to the Senate by reporting it with an amendment, placing the restoration of the fine imposed on General Jackson, by Judge Hall, on grounds which do not involve any censure of either of the parties in this bygone transaction, nor in any degree arraign the conduct of the patriotic citizens of New Orleans; but simply protect the Senate from the possible inference that, in passing this bill, it has acknowledged the legal authority of a military officer to establish martial law within the limits of this free republic. They accordingly report the bill with an amendment.

"Strike out all after the enacting clause, and insert—

"That, in consideration of the distinguished military services of Major-General Andrew Jackson, in the defence of the city of New Orleans, and of the desire expressed by sundry citizens and Legislatures of this Union, in divers petitions and legislative resolutions submitted to the Congress of the United States, the fine of \$1,000 imposed upon Major-General Andrew Jackson by the Hon. Dominick A. Hall, be, and the same is hereby, restored; and that the Secretary of the Treasury be directed to pay to Major-General Andrew Jackson the said sum of \$1,000, with interest at six per cent. thereon, from the day of its payment by him, out of any moneys in the treasury not otherwise appropriated.

"Also, strike out the title of the bill, and insert 'A bill for the relief of Major-General Andrew Jackson.'

Mr. WALKER, from the same committee, read the following; which he submitted to the Senate as a minority report, viz:

"The undersigned, one of the Committee on the Judiciary of the Senate of the United States, to whom was referred the bill to indemnify Major-General Andrew Jackson for damages sustained in the discharge of his official duty, dissents from the views of the majority of the committee in this case. The bill referred to the committee contains no censure of the conduct or motives of Judge Hall, nor does it express any opinion as to the acts of the citizens of New Orleans. It leaves all those subjects untouched, to depend upon the judgment of the present age and of posterity. The bill, should it become a law, will be only an expression of the legislative will, that, under all the circumstances of the case, the money paid by Gen. Jackson in discharge of his fine, and now retained in the treasury of the United States, should be refunded. Such a bill arraigns and censures no one. But the report of the committee, by the clearest implication, in the opinion of the undersigned, does arraign the conduct of General Jackson in this case as subver-

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*Fine on General Jackson.*

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sive of the Constitution of the United States. The case does not necessarily involve the power of a military commander to "establish martial law within the limits of this free republic." This question, however, having been introduced by the committee, the undersigned submits that, in time of war, and of imminent public danger, it may be the duty of the commander to arrest those regarded as traitors, spies, or mutineers, within the limits of his camp; especially in cases where it was obvious to him that his refusal to exercise such power would involve the disbanding of his forces, the defeat of his army, and the surrender of that army and of the country which he was bound to defend. The alternative, as he fully believed, was to make the arrest, or the abandonment of his country's standard, and the surrender of one of her greatest cities, to a powerful enemy, whose motto of victory involved indiscriminate plunder and licentious outrage. Under such circumstances, should he make the arrest and save the country? To this question there will be but one response from the heart of every true American patriot. That General Jackson, and those united with him in the defence of New Orleans, fully believed this emergency to exist, is beyond all doubt or controversy. If, then, this was the state of the case, it was the duty of General Jackson to have made the arrest; and the act was not merely excusable, but justifiable. It was demanded by a great and overruling necessity; and had he failed to assume this responsibility, and the consequences which he anticipated had occurred, he would have merited and received universal execration. Such being the facts, was General Jackson bound to liberate the prisoner, immediately upon the mandate of the Federal judge of that district? If, as Gen. Jackson believed, the danger was still imminent—that the liberation *at that time* of the prisoner would overthrow his power, and bring his authority as commander into contempt—that it would surely produce a repetition of similar acts of mutiny and treason, and demonstrate his inability to restrain, much less to punish them—that it would lead to the depopulation or defeat of his army, and the surrender of the city he was bound to defend; the same overruling necessity which justified the arrest, would require the detention of the prisoner until the emergency had passed, and he could be surrendered with safety into the hands of the civil authority. The law which justified the act, was the great law of necessity; it was the law of self-defence. This great law of necessity—of defence of self, of home, and of country—never was designed to be abrogated by any statute, or by any constitution. This was the law which justified the arrest and detention of the prisoner; and, however the act may now be assailed, it has long since received the cordial approbation of the American people. That General Jackson never desired to elevate the military above the civil authority, is proved by his conduct during the trial, and after the imposition of this fine. When the magistrate ascended to the bench—acting for no contempt in the presence of the court—acting in his own case as prosecutor, witness, accuser, and judge; when the General's answer was refused to be heard, and he was denied a trial by jury; when a victorious army, and a rescued and grateful people, thronged the court, and the terrified Judge was about to

adjourn the court without inflicting the sentence,—General Jackson rose; he quieted the threatened tumult; requested the Judge to proceed; the sentence was imposed; he bowed, in a calm and dignified submission to the mandate of the law, and paid, at once, the penalty inflicted for saving the country. And when, upon retiring from the court, he was surrounded by a grateful and indignant people, his brief, but glorious address, was an appeal to all who heard him to respect the civil tribunals, and maintain the supremacy of the law. And now the question is, shall this penalty, thus incurred in discharge of a solemn duty, and thus paid, be paid, or refunded? The title is, "A bill to indemnify Major-General Andrew Jackson for damages sustained in the discharge of his official duty." The title is in strict conformity with the facts of the case, and, in the opinion of the undersigned, should be retained. The committee, however, propose to reject it, and to substitute, as a title, "A bill for the relief of General Andrew Jackson." General Jackson has never solicited, nor will he ever receive, such relief. He is no mendicant; he asks no alms, or pension, or bounty, from his country: but that country itself demands that his money shall be refunded as an act of justice. It was a penalty incurred for saving the country, and the country requires that it shall be restored. Nor is the undersigned prepared to give the reasons assigned in the bill for refunding this money. The bill places the restoration of the penalty mainly upon the "consideration of the distinguished military services of General Jackson." This bill is not a payment for services, however great or meritorious. These services are being paid in the approbation of his conscience and of his country, in the glorious result of his immortal victories on a frontier saved from savage fury and from indiscriminate massacre, in the rescue of New Orleans and the reconquest of Louisiana and of its noble river; paid in closing our late eventful struggle with glory and renown; paid in the highest honors and offices which a grateful people could bestow; and, through ages to come, posterity will continue the payment in gratitude and praise, re-echoed by countless millions throughout this great republic, and in every country and in every land where our principles shall go on, conquering and to conquer, striking down the thrones of despots, and erecting upon their ruins the glorious fabric of the people's will. And are these the services which it is now proposed to compensate by the payment of this paltry sum, in a bill for the relief of General Andrew Jackson? It is not a bill for relief, but for indemnity; not a payment for services, but a restoration of money unjustly withheld; and in no other view can it receive the support of

"R. J. WALKER."

Mr. BERRIEN moved that the report of the committee, and the bill, as amended, be printed; which motion was put, and agreed to.

On motion of Mr. WALKER, the report of the minority of the committee was ordered to be printed, and appended to the report of the majority.

2d Sess.]

*Impeachment of the President of the United States.*

[JANUARY, 1843.]

## HOUSE OF REPRESENTATIVES.

TUESDAY, JANUARY 10.

*Impeachment of the President of the United States.*

Mr. BOTTS rose and inquired of the Chair whether the proposition which he had given notice of his intention to submit on yesterday, could be now received and entertained as a privileged question.

The SPEAKER replied in the affirmative.

Mr. BOTTS then said that he came prepared to acquit himself of the pledge which he was under, to prefer charges against the acting President of the United States.

Here Mr. EVERETT arose, and inquired if he was to understand the Chair as deciding that the proceeding on the part of the gentleman from Virginia was in order at that time.

The SPEAKER replied he had so decided.

Mr. BOTTS resumed the remarks he had begun. He said that he proposed to introduce charges of corruption, of mal-conduct in office, of high crimes and misdemeanors, committed by the acting President of the United States—charges which he stood prepared to prove, by testimony the most conclusive. He asked that the House might appoint a committee to investigate the charges, and to report what course it was proper to pursue. He was himself prepared to prove every charge which he should bring against the President. He not only asked but he DEMANDED an opportunity of making these charges good. Were he to come here as the humblest citizen of the Republic, and declare his readiness to prove them, he would claim the privilege of so doing as such; much more so, then, did he claim, and insist upon it, as the Representative of fifty thousand people. It was his highest constitutional privilege. One hundred members of this House had declared, and placed it on record, that John Tyler had committed impeachable offences. He (Mr. B.) had so declared; and he considered it due to his own personal honor and reputation that he should be permitted to prove the truth of what he asserted. He was not one of those who dealt in vague and general charges, but would not come up and put their assertions in a tangible form. He made no charges which he was not prepared to sustain with the most conclusive proof. Since his first agitation of this subject at the last session, he had been deeply reflecting and deliberating upon it; and the more he reflected, the more imperative appeared his duty to make these charges. In doing so, he must declare that, so far from being actuated by a desire to render himself conspicuous before the country, and place himself ahead of those on that floor whose lead he generally followed, and whom he would be proud to follow on this as on other subjects, he must be permitted to declare that this was the most painful duty he had ever undertaken to perform. He declared that he was actuated alone

by the obligations which rested upon him. He knew not how long he should be a member of the House of Representatives. If the ability of the Legislature of his State was equal to their *good will* towards him, he should not sit here long; [laughter;] but he could not retire to private life, unless he had first discharged this sacred duty. Should he live to see the overgrown power of the Executive hereafter trampling under foot all opposition—the independence of the Legislature sacrificed—the energies of the people relaxed into listlessness at Executive encroachment and obedience to his will;—should he witness such a state of things in this country, he would have the satisfaction, with a proud heart and erect bearing, that he, for one, at least, had endeavored to arrest it.

Mr. WISE asked if any motion was made in writing. If so, he should like to have it read, in order that he might judge for himself when he came to vote.

Mr. BOTTS said that he would read it himself.

Mr. WISE wished the Clerk to read it.

Mr. BOTTS replied that he would rather read it himself, as he understood his own writing better than anybody else did. Mr. R. then read the following charge:

“I do impeach John Tyler, Vice President, acting as President of the United States, of the following high crimes and misdemeanors:

“1. I charge him with gross usurpation of power and violation of law, in attempting to exercise a controlling influence over the accounting officers of the Treasury Department, by ordering the payment of amounts of long standing, that had been by them rejected for want of legal authority to pay, and threatening them with expulsion from office unless his orders were obeyed; by virtue of which threat, thousands were drawn from the public treasury without the authority of law.

“2. I charge him with a wicked and corrupt abuse of the power of appointment to, and removal from, office; first, in displacing those who were competent and faithful in the discharge of their public duties, only because they were supposed to entertain a political preference for another; and, secondly, in bestowing them on creatures of his own will, alike regardless of the public welfare and his duty to the country.

“3. I charge him with the high crime and misdemeanor of aiding to excite a disorganizing and revolutionary spirit in the country, by placing on the records of the State department his objections to a law, as carrying no constitutional obligation with it; whereby the several States of this Union were invited to disregard and disobey a law of Congress, which he himself had sanctioned and sworn to see faithfully executed, from which nothing but disorder, confusion, and anarchy can follow.

“4. I charge him with being guilty of a high misdemeanor, in retaining men in office for months after they have been rejected by the Senate as unworthy, incompetent, and unfaithful, with an utter defiance of the public will, and total indifference to the public interests.

“5. I charge him with the high crime and misde-

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*Impeachment of the President of the United States.*

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measor of withholding his assent to laws indispensable to the just operations of government, which involved no constitutional difficulty on his part; of depriving the Government of all legal sources of revenue; and of assuming to himself the whole power of taxation, and of collecting duties of the people without the authority or sanction of law.

"6. I charge him with an arbitrary, despotic, and corrupt abuse of the veto power, to gratify his personal and political resentments against the Senate of the United States, for a constitutional exercise of their prerogative, in the rejection of his nominees to office, with such evident marks of inconsistency and duplicity as leave no room to doubt his disregard of the interests of the people, and his duty to his country.

"7. I charge him with gross official misconduct, in having been guilty of a shameless duplicity, equivocation, and falsehood, with his late Cabinet and Congress, which led to idle legislation, and useless public expense; and by which he has brought such dishonor on himself as to disqualify him from administering the Government with advantage, honor, or virtue, and for which alone he would deserve to be removed from office.

"8. I charge him with an illegal and unconstitutional exercise of power, in instituting a commission to investigate the past transactions under a former administration of the custom house in New York, under the pretence of seeing the laws faithfully executed—with having arrested the investigation at a moment when the inquiry was to be made as to the manner in which those laws were executed under his own administration—with having directed or sanctioned the appropriation of large sums of the public revenue to the compensation of officers of his own creation, without the authority of law; which, if sanctioned, would place the entire revenues of the country at his disposal.

"9. I charge him with the high misdemeanor of having withheld from the Representatives of the people information called for, and declared to be necessary to the investigation of stupendous frauds and abuses alleged to have been committed by agents of the Government, both upon individuals and the Government itself, whereby he himself becomes accessory to those frauds."

Mr. BORRIS then said that he wished to connect no man or set of men with his fame on this resolution. He wished no man to commit himself on it till he had an opportunity of proving the truth of his charges.

Mr. WISE interrupted his colleague, and asked for the reading of the proposition founded on the charges. He did not wish to hear the gentleman's speech till he was in possession of the whole subject.

Mr. BORRIS submitted that the matter was not within the control of his colleague.

The SPEAKER requested the gentleman to submit his motion to the House; when

Mr. BORRIS read the following resolution:

*Resolved*, That a committee of nine members be appointed, with instruction diligently to inquire into the truth of the preceding charges preferred against John Tyler, and to report to this House the testimony taken to establish said charges, together with their opinion whether the said John Tyler hath so acted in his official capacity as to require the in-

terposition of the constitutional power of this House; and that the committee have power to send for persons and papers.

Mr. BORRIS said that all he wanted to remark was, that he desired to connect no man, or set of men, with his proposition. He desired no man or party to be committed on it, till the evidence was before the House. By the appointment of a committee to investigate the testimony he would be able to bring forward, they would be able to decide, at a future day, whether Mr. Tyler had committed acts deserving of impeachment by that House. If he succeeded in establishing the truth of these charges, he presumed there would be no member of that House found voting against the impeachment. If, on the contrary, he failed in establishing them, let the odium fall on him, and him alone. He was willing to take all the responsibility, and he wanted no man now to commit himself for or against the charges he offered.

The SPEAKER here asked permission to explain more fully the grounds of his decision. Since the present Speaker had been in the chair, there had been no cases of this kind before the House, and only two cases since the beginning of the Government. The first was that of Chief Justice Chase, in which no question like the one now raised was presented. The case was then considered and acted upon by the House as a privileged question. Mr. Randolph arose in his seat, and, without any resolution or specific charges, after some remarks on the conduct of Judge Chase, moved for a committee to take into consideration the propriety of impeaching him. The matter went on day after day, and, by the universal acquiescence of the House, took preference of all other business as a privileged question. In addition to this, the Chair considered this as a high constitutional question, paramount to all others, without reference to the rules of the House. The Chair, therefore, considered the House bound to act on the resolution, either by reception or rejection of it.

Mr. BORRIS, at the suggestion of Mr. McKAY; modified his resolution, by inserting the word "preceding," before the word "charges." Mr. B. took the occasion further to modify his resolution, by adding "and that the said committee shall have power to send for persons and papers."

The resolution as modified was then read; when

Mr. WISE said: Now, sir, I ask, what are the *preceding* charges?

Mr. BORRIS said he had now appended the resolution to the charges, and would send them up in that form to be read.

The charges and resolutions were then sent up to the Chair, and read by the Clerk.

At the conclusion of the reading by the Clerk, there were loud cries of "Question," "Question."

Mr. CAYE JOHNSON moved to lay the resolu-

8D SESS.]

*The Bankrupt Law.*

[JANUARY, 1848.]

tion on the table. [Cries of "Oh, no; let us have a vote."]

Mr. BORRIS called for the yeas and nays on the motion of the gentleman from Tennessee.

Mr. WISE, and many other members, entreated Mr. C. JOHNSON to withdraw his motion; but he refused to do so.

The yeas and nays were then ordered; and, being taken, resulted—yeas 101, nays 119.

So the motion was negatived.

The question then recurred on seconding the demand for the previous question; which was agreed to.

Mr. CUSHING demanded the yeas and nays on the question, "Shall the main question be now put?"

Mr. TURNER inquired what would be the effect of negativing the main question?

The SPEAKER replied, it would drive the question over till-morrow.

Mr. CUSHING then withdrew his call for the yeas and nays.

Mr. UNDERWOOD renewed the demand; and the yeas and nays were ordered.

The yeas and nays were then taken, and resulted—yeas 122, nays 90.

So the main question was ordered.

The question then recurred on the resolution of the gentleman from Virginia, (Mr. BORRIS,) and resulted as follows:

YEAS.—Messrs. Adams, Landaff W. Andrews, Arnold, Ayer, Babcock, Barnard, Birdseye, Black, Boardman, Botts, Boyd, Milton Brown, William B. Campbell, Thomas J. Campbell, Caruthers, Casey, John C. Clark, Staley N. Clarke, Colquitt, James Cooper, Mark A. Cooper, Cranston, Cravens, Daniel, Garrett Davis, Deberry, John Edwards, Feasenden, Fillmore, A. Lawrence Foster, Gamble, Gentry, Goggin, Green, Halsted, Hays, Houston, Hunt, Joseph R. Ingersoll, James, John P. Kennedy, King, Lane, McKennan, Thomas F. Marshall, Mathiot, Maynard, Moore, Morgan, Morrow, Osborne, Osweley, Pendleton, Powell, Ramsay, Alexander Randall, Rayner, Ridgway, Rodney, William Russell, James M. Russell, Saltonstall, Sewell, Shepperd, Slade, Truman Smith, Sollers, Stanly, Stratton, John T. Stuart, Summers, J. B. Thompson, R. W. Thompson, Toland, Triplett, Trumbull, Turney, Underwood, Warren, Washington, Joseph L. White, Christopher H. Williams, and John Young—83.

NAYS.—Messrs. S. J. Andrews, Atherton, Baker, Barton, Beeson, Bidlack, Borden, Bowne, Brewster, Briggs, Aaron V. Brown, Charles Brown, Burke, Burnell, William Butler, Green W. Caldwell, Patrick C. Caldwell, Calhoun, John Campbell, Cary, Chapman, Clifford, Clinton, Coles, Cowen, Cross, Cushing, Richard D. Davis, Dawson, Dean, Doan, Doig, Eastman, John C. Edwards, Egbert, Everett, Ferris, Charles A. Floyd, Fornance, Gates, Giddings, Gilmer, Patrick G. Goode, Wm. O. Goode, Gordon, Graham, Gustine, Gwin, Harris, Hastings, Henry, Holmes, Hopkins, Houck, Howard, Hubbard, Hudson, Hunter, James Irvin, William W. Irwin, Jack, William Cost Johnson, Cave Johnson, Isaac D. Jones, Keim, Andrew Kennedy, Lewis, Littlefield, Lowell, Abraham McClellan, Robert McClellan, McKay, McKeon, Malory, Marchand, Alfred Marshall, S. Mason, J. T. Ma-

son, Mathews, Mattocks, Maxwell, Medill, Meriwether, Miller, Mitchell, Newhard, Oliver, Farmer, Partridge, Payne, Pickens, Proffit, Read, Beding, Rencher, Reynolds, Rhett, Riggs, Roosevelt, Sanford, Saunders, Shaw, Shields, Snyder, Sprigg, Steenrod, Stokeley, Alexander H. H. Stuart, Sumter, Jacob Thompson, Tillinghast, Trotti, Van Buren, Van Rensselaer, Wallace, Ward, Watterson, Weller, Westbrook, Thomas W. Williams, Joseph L. Williams, Winthrop, Wise, Wood, and Augustus Young—127.

So the House refused to adopt the resolution.

#### IN SENATE.

WEDNESDAY, January 11.

#### *The Bankrupt Law.*

Mr. BENTON presented the petition of Abraham R. Van Nest and others, of the city of New York, praying for the unconditional repeal of the (so called) bankrupt act, upon the ground of its unconstitutionality, and because it was destructive of the rights of creditors.

In presenting this petition, Mr. B. took leave, under the indulgence of the Senate, to correct, for the third time in this body, an error into which he had fallen some time back in relation to voluntary bankruptcy. He had been led to believe that bankruptcy might be voluntary—that the English bankrupt system contained this principle; and, consequently, the principle came to us as a part of the system which we had borrowed from England. He had been led to believe this, and had expressed himself to that effect in several speeches. He had spoken in favor of this voluntary bankruptcy, and on questions of amendment or in substitution of one bill for another, he had voted in favor of it. But it was all wrong, and he had declared and renounced the error in two speeches heretofore made before the Senate—once in December, 1841, and again in August, 1842—on both which occasions he had traced the error to its source, and showed there was no such thing in the English systems. The sixth section of the act of George IV., (1826,) was the foundation of this error: on referring to that section, (which he did a year or two ago,) he found that the section only authorized those traders and merchants who were the proper subjects of a bankrupt law, to make a declaration of insolvency, and file it in the bankrupt court, where it operated as an act of bankruptcy, on which the creditors might proceed, or not, as they pleased. If the creditors did not proceed, and that within a limited time, the declaration of insolvency stood for nothing: the debtor could not proceed upon it—he could not drag the creditors into court! This the section shows. Mr. B. here read the section as follows:

*Bankrupt act of the sixth year of George IV. (1826.)*

"SEC. 6. That if any such trader shall file in the office of the Lord Chancellor's secretary of bankrupts, a declaration in writing, signed by such trader, and attested by an attorney or solicitor,

that he is insolvent or unable to meet his engagements, the said secretary of bankrupts, or his deputy, shall sign a memorandum that such declaration hath been filed; which memorandum shall be authority for the London Gazette to insert an advertisement of such declaration therein; and every such declaration shall, after such advertisement inserted as aforesaid, *be an act of bankruptcy committed by such TRADER at the time when such declaration was filed*: but no commission shall issue thereupon, *unless* it be sued out within two calendar months next after the insertion of such advertisement, and *unless* such advertisement shall have been inserted in the London Gazette within eight days after such declaration filed. And no docket shall be struck upon such act of bankruptcy before the expiration of four days next after such insertion of such advertisement, in case such commission is to be executed in London; or before the expiration of eight days next after such insertion, in case such commission is to be executed in the country; and the Gazette containing such advertisement shall be evidence to be received of such declaration having been filed."

Having read this section, Mr. B. said it was explicit, and precluded argument. The voluntary action of the debtor, which it authorized, was limited to the mere filing of the declaration of insolvency. It went no further; and it was confined to traders—to the trading classes—who, alone, were subject to the laws of bankruptcy. Mr. B. said his first error, in acting upon this idea of voluntary bankruptcy, applicable both to traders and to those who were not, was committed in 1827, soon after the British act passed, and when he had not seen it. It was, in fact, only one or two years ago that he had seen the statute; and, from that time, had renounced the error.

Mr. B. said that the English had, as we all knew, an **INSOLVENT SYSTEM**, as well as a **BANKRUPT SYSTEM**. They had an **INSOLVENT DEBTORS' COURT**, as well as a **BANKRUPT COURT**; and both these were kept separate, although there were no **STATES** in England to be trodden under foot by treading down the insolvent laws. Not so with us. Our insolvent laws, though belonging to States called sovereign, are all trampled under foot! There would be a time to go into this. At present, Mr. B. would only say that, in England, bankruptcy and insolvency were still kept distinct; and no insolvent trader was allowed to proceed as a bankrupt. On the contrary, an insolvent, applying in the Insolvent Debtors' Court for the release of his person, could not proceed one step beyond filing his declaration. At that point the creditors took up the declaration, if they pleased, transferred the case to the Bankrupt Court, and prosecuted the case in that court. This is done by virtue of the 18th section of the Insolvent Debtors' Act of 7th Geo. IV., (1827.) Mr. B. read the section, as follows:

*Insolvent debtors' act of 7th year of George IV. (1827.)*

SEC. 13. *And be it further enacted*, That the filing of the petition of every person in actual custody, who

shall be subject to the laws concerning bankrupts, and who shall apply by petition to the said court, for his or her discharge from custody, according to this act, shall be accounted and adjudged *an act of bankruptcy from the time of filing such petition*; and that any commission issuing against such person, and under which he or she shall be declared bankrupt before the time appointed by the said court, and advertised in the *London Gazette*, for hearing the matters of such petition, or at any time within two calendar months from the time of filing such petition, shall have effect to avoid any conveyance and assignment of the estate and effects of such person, which shall have been made in pursuance of the provisions of this act; *Provided, always*, That the filing of such petition shall not be deemed an act of bankruptcy, *unless* such person be so declared bankrupt before the time so advertised as aforesaid, or within such two calendar months as aforesaid; but that every such conveyance and assignment shall be good and valid, notwithstanding any commission of bankruptcy under which such person shall be declared bankrupt after the time so advertised as aforesaid, and after the expiration of such two calendar months as aforesaid."

This (said Mr. B.) accords with the section of the year before in the bankrupt act. The two sections are accordant, and identical in their provisions. They keep up the great distinction between insolvency and bankruptcy, which some of our judges have undertaken to abrogate: they keep up, also, the great distinction between the proper subjects of bankruptcy—to wit: traders, and those who are not traders; and they keep up the distinction between the release of the person (which is the object of the insolvent law) and the extinction of the debt with the consent of creditors, which is the object of insolvent systems. By this section, if the "*person*" in custody who files a declaration of insolvency shall be a trader, subject to the laws of bankruptcy, it only operates as an act of bankruptcy, upon which the creditors may proceed, or not, as they please. If they proceed, it is done by suing out a commission of bankruptcy; which carries the case to the bankrupt court. If the creditors do not proceed, the petition of the insolvent trader only releases his person. Being subject to bankruptcy, his creditors may call him into the bankrupt court, if they please; if they do not, he cannot take it there, nor claim the benefit of bankruptcy in the insolvent court: he can only get his person released. This is clear from the section; and our act of 1840 committed something worse than a folly in not copying this section. That act creates two sorts of bankruptcy—voluntary an involuntary—and, by a singular folly, makes them convertible! so that all may be volunteers if they please. It makes merchants, traders, bankers, and some others of the *trading* classes, subject to involuntary bankruptcy: then it gives all *persons* whatever the right to proceed voluntarily. Thus the involuntary subjects of bankruptcy may become volunteers; and the

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distinction becomes ridiculous and null. Our act, which is compiled from the English Insolvent Debtors' Act, and is itself nothing but an insolvent law perverted to the abolition of debts at the will of the debtor, should have copied the 13th section of the English insolvent law: for want of copying this, it annihilated involuntary bankruptcy—made all persons, traders or not, volunteers who chose to be, so—released all debts, at the will of the debtor, without the consent of a single creditor—and committed the most daring outrage upon the laws of property which the world ever beheld!

*Report on the Fine on General Jackson.*

The resolution introduced by Mr. LINN to print 10,000 extra copies of the report of the majority, and 20,000 of the report of the minority of the Committee on the Judiciary on the bill to indemnify General Andrew Jackson for damages sustained in the discharge of his official duties, came up for consideration.

Mr. ALLEN demanded the yeas and nays on the resolution; which were ordered, and were as follows:

YEAS.—Messrs. Allen, Benton, Buchanan, Fulton, King, Linn, McRoberts, Sevier, Smith of Connecticut, Sturgeon, Tappan, Walker, Wilcox, Williams, Woodbury, Wright, and Young—17.

NAYS.—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clayton, Conrad, Crafts, Crittenden, Dayton, Evans, Graham, Huntington, Kerr, McDuffie, Mangum, Miller, Morehead, Porter, Smith of Indiana, White, and Woodbridge—23.

So the Senate refused to print the reports.

*Oregon Territory.*

The bill to authorize the occupation and settlement of the Territory of Oregon came up as the unfinished business; the question pending being, "Shall this bill pass?"

Mr. TAPPAN said he hoped the bill would be adopted by the Senate; for he considered it of the utmost importance that it should pass, notwithstanding the reasons which had been assigned by the Senator from South Carolina and the Senator from Massachusetts, on a former day, against its passage. It appeared that, by certain treaty stipulations between this Government and Great Britain, entered into in the year 1818, the British had the right of trading throughout the whole of that territory; of entering into all the ports and harbors upon the coast; and of carrying on their trade therein, as freely and as fully as might be done by the citizens of the United States. Under this treaty, the British Trading Company had erected a fort, called Fort Vancouver, and had settled and cultivated some of the adjacent lands: but to what extent, he (Mr. TAPPAN) did not know.

And now (said Mr. TAPPAN) we have the proposition advanced in this Senate, that these treaty stipulations give to Great Britain a tenancy in common with the Government of

the United States within the Oregon Territory—that the subjects of Great Britain had a right to occupy it with the citizens of the United States. No Senator had intimated any doubt as to the title of the United States to the territory, founded upon discovery and upon treaties. As to the treaty or convention of 1818, although he thought the construction put on it by honorable Senators was quite a forced construction, he would guard against the consequences of such construction, that it might not grow up into an admitted claim to the whole territory.

Mr. CALHOUN said he had merely stated what interpretation was put upon the treaty; he had given no opinion as to the correctness of that interpretation.

Mr. TAPPAN said the Senate would recollect that there had been recently before them a question as to the North-eastern boundary of the United States. That question had arisen from the same kind of carelessness or ignorance in our negotiators of the treaty of Ghent, which seemed to have prevailed in negotiating the convention of 1818.

By the treaty of peace of 1783, the north-west corner of Nova Scotia was the point from which the boundary line of the United States was to be run, and it was the point at which that boundary line was to terminate. Whatever uncertainty there might be in the description of any part of that boundary, there was none whatever in the place where the line should begin and end; nor was there any difficulty, doubt, or uncertainty, as to where that north-west corner was to be found. The map which it is known that the commissioners had before them, and used, as well as all the English maps of their North American possessions, agreed in placing this corner far north of the St. John River, and west of the Bay of Chaleurs. I speak of English maps, because it is well known that the French claimed that the northern part of Maine belonged to Canada, and laid it down accordingly on their maps of that country, even after the peace 1783. Any ordinary country surveyor might have ascertained where that north-west corner of Nova Scotia was, and from that might have run the north line of Maine; nor would any two honest surveyors have differed as to the position of that corner, or the line to be run from or to it.

This matter, so clear, and, until then, undisputed, was made doubtful and uncertain by our negotiators of the treaty of Ghent. If that treaty, instead of stipulating for the appointment of a joint commission, "to run and mark the boundary line between the two Governments," had required such commission "to ascertain the north-west corner of Nova Scotia, and to run the line from and to that point," no difficulty would ever have arisen between the two Governments as to either the north or east line of Maine; but, as the treaty stipulated that if the commissioners disagreed where the line was, it should be left to some



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friendly power to determine, the British Government, with their usual adroitness, seized upon this agreement to draw off the attention of the people of Great Britain and the United States from the true point for settlement, and fix it upon an inquiry and examination as to where are the highlands mentioned in the treaty of peace. The British Government, after raising this controversy, took possession of the country north of the St. John, and held it by military force. You all know (said Mr. T.) the long train of negotiation which we have been amused with upon this matter; the reference of the question of "where were the highlands," to the King of Holland; and his award, and the rejection of it by this Government. He would now ask the attention of the Senate to the close of this controversy to the treaty recently concluded with Lord Ashburton. The negotiation of this treaty shows the complete success of British diplomacy. A territory which had been ours, not only without dispute, but without any suspicion as to the goodness of our title, for more than thirty years, until the treaty of Ghent, was admitted by our own Secretary of State to have never belonged to us. When the late treaty with Great Britain was laid before the Senate, with the correspondence which led to it, it was seen that the boundary settled by it, between our possessions and the British, was one proposed by our Government, and acceded to by the British negotiator, giving them all the territory north of the St. John, and a large tract west, which they had never claimed. We lost all this (said Mr. T.) by negotiation, and would not regain it without a war; for in any future negotiation or reference as to the northern line of Maine, we could not expect the British to recede from the St. John, when we had offered, not to cede the country north of that river for an equivalent, but to fix upon that as the true boundary intended to be described in the treaty of 1788. For this reason, he voted to ratify this treaty. The boundary was our own proposition; and we would be considered by the whole civilized world as precluded from advancing a claim to a more northern boundary. The territory was lost by our own folly, and could not be regained without a war; and war, in the present state of the country, (which he would not explain, as it was understood by every Senator,) was, with him, entirely impracticable.

Individuals (said Mr. T.) are called fools if they will not profit by their own experience: so are nations. If, soon after the treaty of 1783, we had granted the land in the north part of Maine, and invited a settlement to be made on it, it would never have been claimed by Great Britain. The north-west corner of Nova Scotia would now be the north-east corner of the United States. But, instead of settling it ourselves, we let the British settle it; we negotiated until it was gone from us. He was for taking a very different course with

the Oregon Territory. He would let the hardy Western yeomanry in upon that country; he would plant fifty thousand rifles there, in hands that knew how to use them; and no more would be heard of British claimants, or British claims to that territory. If (said Mr. T.) this is not done—if, from fear of offending our old mother, we forbear to take strong possession of the country, and go on negotiating and arbitrating about it as we did about Maine—by-and-bye some Secretary of State will be found proposing the line of the Rocky Mountains as the Western boundary of our glorious Union. Yes, and proposing it when we dare not involve the nation in a war. He would trust to no such contingency. He would settle the country immediately, and hold it.

On motion of Mr. SEVIER, who intimated a desire to examine certain documents relating to this subject, the bill was informally passed over.

On motion of Mr. HUNTINGTON,  
The Senate adjourned.

THURSDAY, January 12.

*Oregon Territory.*

The bill to authorize the occupation and settlement of the Territory of Oregon, came up as the unfinished business; the question pending being, "Shall this bill pass?"

Mr. SEVIER said the Select Committee, to whom the subject of the settlement of the Oregon Territory had been referred, had endeavored, in considering the subject, to effect two objects—one was the preservation of our national faith, and the other the preservation of our rightful possessions west of the Rocky Mountains. And the committee believed that those two objects will be effected by the passage of the bill they have submitted to the Senate.

It was gratifying to him to find that every Senator conceded the point, that our right to the territory in question was incontestable. That question had been well settled.

He had in his possession documents which set forth, in brief and comprehensive terms, the claim of the United States.

Mr. Gallatin had claimed for the United States the possession of this territory on these grounds:

"The first discovery of the Columbia, by Gray; the first exploration of the territory through which that river flows, by Lewis and Clark; and the establishment of the first posts and settlements in the said territory, by citizens of the United States:

"The virtual recognition by the British Government of the title of the United States, in the restitution of the post near the mouth of the Columbia, agreeably to the first article of the treaty of Ghent, without any reservation or exception whatsoever:

"The acquisition by the United States of all the titles of Spain, which titles were derived from the discovery and exploration of the coasts of the region in question, by Spanish subjects, before they had been seen by the people of any other civilized nation:

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"And, lastly, upon the ground of *contiguity*, which should give to the United States a stronger right to these territories than could be advanced by any other power. 'If,' said Mr. Gallatin, 'a few trading factories on the shores of Hudson's Bay have been considered by Great Britain as giving an exclusive right of occupancy as far as the Rocky Mountains—if the infant settlements on the more southern Atlantic shores justified a claim thence to the South Seas, and which was actually enforced to the Mississippi—that of the millions of American citizens already within reach of those seas, cannot consistently be rejected. It will not be denied, that the extent of contiguous country to which an actual settlement gives a prior right, must depend, in a considerable degree, on the magnitude and population of that settlement, and on the facility with which the adjacent land may, within a short time, be occupied, settled, and cultivated by such population, compared with the probability of its being occupied and settled from any other quarter. This doctrine was admitted to its fullest extent by Great Britain, as appeared by all her charters, extending from the Atlantic to the Pacific, given to the colonies established then only on the borders of the Atlantic. How much more natural and stronger the claim, when made by a nation whose population extended to the central parts of the continent, and whose dominions were by all acknowledged to extend to the Rocky Mountains."

These were the points upon which our claim was based. It was unnecessary to trouble the Senate by going any further into the evidence of our title. Our discovery of the country drained by the Columbia River had been made as early as the year 1792. But our claim did not rest alone upon priority of discovery, but also upon a treaty of cession with Spain, by which the title of Spain to the country in question, in 1819, became the property of the United States. We had not, in the year 1792, any settlement west of the Mississippi River, which then belonged to Spain; and, in fact, but few settlers west of the Alleghany Mountains. We had no State west of the Ohio River or of the Alleghany Mountains; and it was therefore a matter of no consequence whether we owned the territory at that early period or not. But in the year 1808, when the treaty with the French Republic was made, it had become important that we should possess that portion of the country, for the purposes of trade, for the sake of the fur trade and of the lumber trade; but most of all was it important for the purpose of protecting our settlements from the Indians, who were tampered with, as had always been the case, by the English. Hence it would be found that Mr. Jefferson had, as early as 1804, recommended to Congress an appropriation for the exploration of the Missouri, and the country west of the Rocky Mountains. Lewis and Clark were accordingly authorized to explore the Missouri River to its source, and thence the country west of the Rocky Mountains to the Ocean; and they were the first who explored the tract of country lying along the course of that river, and west of the Rocky

Mountains. Pursuing the same object, Mr. Madison granted facilities for the establishment of a colony at the mouth of the Columbia, upon the application of Mr. Astor. A settlement was formed, and a fort erected, and an important commerce was established with Russia and with China. But when the war of 1812 broke out, that coast being under the control and in the possession of renegades, it was given to a British armed force, without firing a gun. Had there been a sufficient force, the result would have probably been different. But the place was surrendered; and it continued to be occupied by the British until the treaty of 1818, when our commissioners required its surrender, and it was given up. But, the British having occupied the country for so long a period—from 1812 until 1818—they had been enabled to erect a line of forts, and to extend their settlements over the whole country; and, when our people came again into possession, they found themselves under considerable disadvantage—all the most important points being pre-occupied by the English; who had taken care also to instil in to the Indian tribes such a hatred of our people, that it was dangerous for them to attempt forming a settlement at all. They were compelled, in some cases, to abandon their forts. And, when an attempt was made, in 1818, to settle the line of boundary, the British refused to come to any terms. They desired to navigate the Columbia River, and, in fact, to command the whole country. The consequence was, that certain stipulations, by which the country was to be occupied in common for the space of ten years, were entered into. If Senators would for a moment turn their attention to the terms of those stipulations, they would find that no provision was contained in them by which the settlement of that tract of country was prohibited or prevented. Each nation had the right to claim access to the ports of the other, for the purposes of trade and commerce. There was no provision by which settlement was restricted. He had procured a work, which was prepared for the State Department, by Greenhow, in which this arrangement will be found, and in which much other valuable information, connected with the discovery and settlement of that country, is also to be found.

The British had extended their settlements everywhere; and not only had they done this, but they had gone on and attached the whole of that country to the province of Canada, appointed justices of the peace, and were administering their laws throughout that country.

What was it that we now proposed to do? We proposed to endeavor to get possession of what we were entitled to, and of which we had for so long a time been kept out of possession. By passing this bill, we should extend to our settlements that protection and encouragement they so much needed. The bill had been more carefully drawn than that which

passed the British Parliament; for provision had been made that, in all cases, persons claiming to be British settlers should be handed over to the British authorities for trial; whereas they made no such concession on their part, but, on the contrary, compelled every aggressor to be tried by her laws, as administered in the courts of Canada, and the smaller offences by justices of the peace within the territory.

Mr. LINN here stated the additional fact, that the British even claimed the right to exercise jurisdiction over the Indian tribes, and had actually tried and executed Indians for capital offences.

Mr. SEVIER proceeded to observe that this bill had been framed with a view to as great liberality as possible. It provided for the building of a chain of forts across the mountains. The British had been building forts themselves everywhere; they could not, then, find fault with us for doing what they had already done.

Now, what were the objections which were raised against the passage of this bill? One objection was, that by it we grant land to settlers. He (Mr. S.) looked upon this as the very life and soul of the bill. Strike out this provision, and you would have no settlers there; but, on the contrary, the country would remain in the possession of the British henceforth and forever.

Look at the situation of the country. Consider the distance from the confines of Missouri to be traversed by settlers—through a country, too, filled with Indians, many of them hostile—a country through which there was no road, and in which they could only subsist by their skill and success as hunters. They would have to traverse the mountains amid hostile bands of Indians, and afterwards descend the river, where they would meet the British—worse antagonists than the Indians. They would have then to establish their settlements, make their improvements, and erect their mills; this would be a work of time, requiring two or three years; and until this was done, they would have to subsist upon the fish of the river and the game of the woods. Was it reasonable to suppose that any one would be willing to encounter these difficulties and dangers without the hope of reward? No. In his opinion, the bounty was too small. He did not believe they would get a single settler to go there. If the land clause was stricken out, they might as well destroy the whole bill; they would then have a line of forts erected, without settlers to be protected; they would have forts to protect nobody, for nobody would go there. They would settle on this side of the mountains, where there were no difficulties to be encountered. For his own part, he would rather see the bounty quadrupled. He was sorry to hear so much said about the power of Great Britain, and our fears of her

power. He disliked to hear these appeals made to our fears.

Though Great Britain had filled the whole world with dread, yet he hoped to see one nation, at least, that would not succumb to her aggression—and that nation was the United States. He hoped to see this country carry out her laws, regardless of what Great Britain might think or do. This country had already experienced aggressions on the part of Great Britain. The public mind was a little sore on this subject. He would dislike to see them repeated, though he did not fear the power of England. On a late occasion he had voted to take possession of a tract of country claimed by Great Britain. And he was not alone in that vote—he had with him the Senator from Missouri—and not succeeding, he had voted for the treaty. He had grown tired of negotiations at that time, and was more so now; and he believed other Senators were also.

In regard to this subject, he desired some action should take place. We had a right to the whole of that country, from the Mexican to the Russian possessions—all of it that was worth claiming;—for south of 42 degrees parallel, there was not sufficient rain for agricultural purposes. The only portion fit for cultivation was from 42 degrees to 49 degrees of north latitude. If the British were confined to the country north of the 49th parallel of latitude, they could have no other object in remaining there but the carrying on of the fur trade, that would soon be exhausted; and when that is exhausted, that whole coast, both by British and Russians, will be abandoned, and, of consequence, virtually fall into our possession.

He believed the possession of that country was highly important to this Government, for the purpose of carrying on our trade in the Pacific Ocean with China and Russia. It was important that we should have a place where our vessels might go for supplies and for repairs; they were now obliged to resort to the Sandwich Islands for these purposes. He considered it important, also, in order to preserve peace upon our frontier. He would be in favor of putting in operation the principles advanced by Mr. Monroe, in his Message to Congress in December, 1823.

Mr. Monroe said that

"The occasion had been judged proper for inserting as a principle, in which the rights and interests of the United States are involved, that the American continents, by the free and independent condition which they have assumed and maintained, are henceforth not to be considered as subjects for colonization by any European power."

This is a sentiment to which he most cordially responded; and in order to carry it out to the letter, he was willing to encounter some difficulties and dangers. He would be willing, if our financial condition would justify it, to vote a million or two of dollars to build a

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railroad from the frontiers of Missouri, up the valley of the river Platte, to its source in the Rocky Mountains; and on this road, between these points, which could be travelled in two or three days, carry all our emigrants and their effects for a year or two, free of cost or charges. But, unfortunately, we have not got the money for making such a road, although over such a country, which is level and a prairie, where there would be no grading of consequence, and no timber or obstructions to remove, it would cost comparatively but a trifling sum—perhaps a million and a half, or two millions of dollars. I would at this time prefer such an expenditure of the public money, to any distribution of it to the States.

He was sorry to find Senators object to pursue this course, for fear of giving offence to Great Britain. She had been extending her settlements south of the Columbia River, and she had erected forts; but the building of forts alone by us, without including settlers to migrate, would as speedily set us by the ears with Great Britain, as if we made the grants. These were the views he entertained in relation to the subject. He hoped, therefore, the bill would pass, as he believed it was highly important to the interest of this country that the Territory of Oregon should be settled and protected.

Mr. BENTON said he would not restate the American title to this country: it had been well done by others who had preceded him in the debate. He would only give a little more development to two points—the treaties of 1803 and 1819; the former with France, by which we acquired Louisiana; the latter with Spain, by which we acquired all her rights on the north west coast of America north of 42 degrees. By the first of these treaties we became a party to the 10th article of the treaty of Utrecht, between France and England; the treaty of peace of 1714, which terminated the wars of Queen Anne and Louis XIV., and settled all their differences of every kind in Europe and America, and undertook to prevent the recurrence of future differences between them. The 10th article of this treaty applied to their settlements and territories in North America, and directed commissaries to be appointed to mark and define their possessions. These commissaries did their work. They drew a line from ocean to ocean to separate the French and British dominions, and to prevent future encroachments and collisions. This line began on the coast of Labrador, and followed a course slightly south of west, to the centre of North America, leaving the British settlements of Hudson's Bay to the north, and the French Canadian possessions to the south. This line took for a landmark the Lake of the Woods, which was then believed to be due east from the head of the Mississippi; and from that point took the 49th parallel of north latitude indefinitely to the west. The language of the line is "*indefinitely*;" and this estab-

lished the northern boundary of Louisiana, and erected a wall beyond which future French settlements could not cross to the north, nor British to the south.

As purchasers of Louisiana, the treaty of 1803 made us party to the 10th article of the treaty of Utrecht, and made the 49th parallel the same to us and the British, which it had been to the French and the British: it became a wall which neither could pass, so far as it depended upon that line. This the British saw, and quickly went to work to abrogate or mutilate a line which presented an impassable barrier to their designs upon the Columbia River. The American, Captain Gray, had first discovered that river at its mouth, in 1790; Lewis and Clark had discovered it from its head to the sea in 1804-5; and these discoveries of contiguous territory gave us the rights of first discovery over the whole river, in addition to the rights derived from treaties. But no sooner had Captain Gray discovered this great river than the British coveted it, and sent out McKenzie to discover it over again, and especially to find its head in high northern latitudes. To do this, McKenzie, proceeding from Canada, bore far to the north; missed all the waters of the Columbia; fell upon the *Tacoutche Tere*, and struck the ocean five hundred miles (following the coast) to the north of the Columbia. Thus, this attempt to hatch a claim to this river, by discovering it at the head, after we had discovered it at the mouth, entirely failed; and the British were left without a pretext for claiming our property. In this dilemma, McKenzie proposed to make short work of it with the United States: he proposed to seize the river, and to hold it, because it was necessary to the British scheme of trade and domination in that quarter; and to expel all "American adventurers" from it.

This was the proposition of McKenzie; and from that moment the labors of the British Government became systematic and incessant to seize the Columbia. Their first step in this work was to abrogate, or mutilate, the established boundary of the 49th degree of north latitude; for, while that line stood, they could not approach within three degrees of the mouth of the Columbia, which was in 46 degrees. British diplomacy now went to work to destroy this line, at least beyond the Rocky Mountains; and labored indefatigably at it, until they accomplished their design.

Louisiana was acquired in 1803. In the very instant of signing the treaty which brought us that province, another treaty was signed in London, (without a knowledge of what was done in Paris,) fixing, among other things, the line from the Lake of the Woods to the Mississippi. This treaty, signed by Mr. Rufus King and Lord Hawkesbury, was rejected by Mr. Jefferson without reference to the Senate, on account of the fifth article, (which related to the line between the Lake of the Woods and the head of the Mississippi,) for fear it might

compromise the northern boundary of Louisiana and the line of 49 degrees. In this negotiation of 1803, the British made no attempt on the line of the 49th degree, because it was not then known to them that we had acquired Louisiana; but Mr. Jefferson, having a knowledge of this acquisition, was determined that nothing should be done to compromise our rights, or to unsettle the boundaries established under the treaty of Utrecht.

Another treaty was negotiated with Great Britain in 1807, between Messrs. Monroe and William Pinckney on one side, and Lords Holland and Auckland on the other. The English were now fully possessed of the fact that we had acquired Louisiana, and became a party to the line of 49 degrees; and they set themselves openly to work to destroy that line. The correspondence of the ministers shows the pertinacity of these attempts; and the instructions of Mr. Adams, in 1818, (when Secretary of State, under Mr. Monroe,) to Messrs. Rush and Gallatin, then in London, charged with negotiating a convention on points left unsettled at Ghent, condense the history of the mutual propositions then made. Finally, an article was agreed upon, in which the British succeeded in mutilating the line, and stopping it at the Rocky Mountains. This treaty of 1807 shared the fate of that of 1803, but for a different reason. It was rejected by Mr. Jefferson, without reference to the Senate, because it did not contain an explicit renunciation of the pretension of impressment!

At Ghent the attempt was renewed: the arrest of the line at the Rocky Mountains was agreed upon, but the British coupled with their proposition a demand for the free navigation of the Mississippi, and access to it through the territories of the United States; and this demand occasioned the whole article to be omitted. The Ghent treaty was signed without any stipulation on the subject of the line along the 49th degree, and that point became a principal object of the ministers charged with completing at London, in 1818, the subjects unfinished at Ghent in 1814. Thus the British were again foiled; but, true to their design, they persevered, and accomplished it in the convention signed at London in 1818. That convention arrested the line at the mountains, and opened the Columbia to the joint occupation of the British; and, being ratified by the United States, it has become binding and obligatory on the country. But it is a point not to be overlooked, or undervalued, in this case, that it was in the year 1818 that this arrestation of the line took place; that up to that period it was in full force in all its extent, and, consequently, in full force to the Pacific Ocean; and a complete bar (leaving out all other barriers) to any British acquisition, by discovery, south of 49 degrees in North America.

The other point in our title, to which I wish to give a little more development than it has received from other speakers, is, its derivation

under the treaty with Spain of 1819. By that treaty the United States succeeded to all the rights of Spain on the north-west coast of America north of 42 degrees. These rights, according to the memoir of the Spanish minister Don Onís, extended to the Russian possessions—the British having nothing on that coast! This was the representation of the Spanish minister; and with this, the fact of the case agreed. The Nootka Sound treaty and controversy of 1790 had decided that point! It decided that the British had no right to Nootka, a place four degrees north of the Columbia, and no way connected with it: and it ended in obtaining for the British the privilege, and nothing but the privilege, of fishing and hunting along the north-west coast, and erecting the temporary huts which the pursuit of these occupations might require. Colonization or settlement was renounced. The treaty itself, especially the 3d and the 6th articles, will prove this; and the parliamentary debates of the day correspond with the words of the treaty. As a fact, that treaty nullifies all British claim on the north-west coast; as a law, (if not abrogated by war,) it would still confine them to the pursuit of hunting and fishing. The treaty of 1819, by which we acquired all the Spanish title north of 42°, has given us all the benefits of the Nootka Sound treaty, both as a fact, and as a law; and, tested by either, the British are excluded from the north-west coast of America for all the purposes of settlement or colonization.

Having given this development to our title as derived from the treaties of 1803 and 1819 with France and Spain, Mr. B. proceeded to show the nullity of the British pretensions, and the tortious nature of the possession which they had acquired on the Columbia River. For this purpose he took several positions, and stated them as points which he meant to establish by proof. The first was, that up to the year 1818, the British never pretended to state any claim, or any shadow or color of claim, of any kind whatever, to the Columbia River. The second position was, that in the year 1818 they suggested title under the discoveries of Captain Cook, and under purchases made from Indians south of the Columbia prior to the American revolution; but showed nothing to sustain these empty suggestions. The third position was, that in 1826 they abandoned the idle suggestions of 1818, and took refuge, for the first time, under the Nootka Sound treaty; and, in the fourth place, he undertook to show that their possession of the Columbia was intrusive and tortious—a trespass, and a fraud upon our pre-existing possession of the same river; and a wrong and aggression which the Government of the United States should resist and repulse.

In support of these positions, Mr. B. read copiously from Mr. Adams's instructions of 1818 to the American ministers in London who negotiated the convention of that year; and from a letter from Mr. John Jacob Astor of

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1818 to the Secretary of State, (Mr. Monroe,) to be laid before President Madison. These documents established, as he maintained, all the points he had stated, and showed the nullity and futility, as well as the impudence, of the British pretension.

Having read these extracts from Mr. Adams's letter of instructions of July, 1818, Mr. B. commented upon them to sustain his several positions in relation to the nullity, inconsistency, and bad faith of the British pretension. He particularly relied upon these expressions: "The *new* pretension of disputing our title to the Columbia River"—"design on their part to *encroach* by new establishments south of 49 degrees"—"desire to *check* the progress of our settlements"—"*jealousy* of the United States"—"affected to apply the indefinite extension of the limit to our territories, and not to those of Great Britain"—"leave a *nest-egg* for future pretensions south of 49°"—"the Spanish minister claims for Spain to 56°"—"the pretensions of the British Government may, on this occasion, be *disclosed*"—"we *know not* precisely what they are." Upon these expressions, and others, Mr. B. relied, and commented, to show that, up to the date of that letter of Mr. Adams, (to wit, July 28th, 1818,) the British had shown or suggested no claim of any kind whatever to any part of the valley of the Columbia; that they were trusting to the arts of diplomacy to generate something which could be hatched into a claim; and that their design was to encroach upon our settlements south of 49°.

This was the state of the question in July, 1818, when the negotiation was commenced in London, which ended in the convention of October of that year, for a ten years' joint possession of all the country west of the Rocky Mountains. The negotiation was conducted by Messrs. Gallatin and Rush, and, of course, was calculated to constrain the British to make a disclosure of the grounds of their pretensions. Mr. Adams had notified them that, on this occasion, the British claim must be disclosed; and disclosed it was! and what a disclosure! Listen to it, as communicated to our Government by Messrs. Gallatin and Rush in their despatch of October 20, 1818. Here it is:

"The British plenipotentiaries asserted that former voyages, and principally that of Captain Cook, gave to Great Britain the rights derived from discovery; and they alluded to purchases from the natives south of the river Columbia, which they alleged to have been made prior to the American revolution."

This was the claim disclosed; and in support of this, not one name, fact, or specification of any kind was submitted. Discovery and purchase was the ground of their pretension. But who discovered, and when, and from whom the purchase was made, the British commissioners could not tell. They did not attempt to tell; but proposed to compromise the ques-

tion by taking the river for the boundary, and getting the use of the harbor at its mouth. The proposition to this effect is thus stated, in the same despatch, by Messrs. Gallatin and Rush:

"They did not make any formal proposition for a boundary, but intimated that the river itself was the most convenient that could be adopted, and that they would not agree to any that did not give them the harbor at the mouth of the river in common with the United States."

This (said Mr. B.) was their intimation for a boundary; and in this intimation we recognize the precise policy which McKenzie had marked out, and by which the British were to become the masters of the Columbia, and to expel the "American adventurers" from it.

Our commissioners did not agree to this boundary, and to this joint-tenancy in the harbor; but they signed the convention of 1818, according to their instructions, which arrested the line of the 49th degree at the Rocky Mountains, and gave a joint occupation of the country beyond the mountains to both parties. Their instructions authorized them to do this; and the point to be now noted is, that up to the ratification of that convention the line of 49 degrees, as established under the treaty of Utrecht, to define the possessions and limit the acquisitions by discovery of France and Great Britain in North America, remained in full force! That line was in force until we ratified the convention; and, by that line, without regard to other barriers, Great Britain was barred out from all the valley of the Columbia, and all the coast of North America south of 49 degrees. The convention abrogated the line—unhappily abrogated it—from the Rocky Mountains to the Pacific Ocean. But it did so with a reservation, that the claims of the parties were not to be affected by it. The abrogation was unfortunate; but the reservation was a stipulation to prevent mischief—a stipulation to baffle the designs of subtle diplomacy, always seeking to deposit the seeds of a new contestation in the simulated settlement of an old one; and it was equivalent to an express declaration that the British claim was to be made no better, and ours to be made no worse, by this arrestation of the line of 49 degrees, and the joint occupation of the Columbia, which resulted from it.

We have now (said Mr. B.) traced the British pretension up to the conclusion of the convention of 1818; and we have seen that, up to the month of July of that year, they had stated or suggested no claim, or even shadow or color of claim, to the Columbia; that, being pressed, they then intimated a claim resting on discovery and purchase, but without stating a single particular by which this pretended discovery and purchase could be brought to the touchstone of proof and reason. They were evidently absurd, and even ridiculous. All the world knows that Capt. Cook never saw the Columbia!—all the world knows that no other British

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navigator saw it, until after Capt. Gray showed it to them!—and, as for the Indian purchases south of that river, before the Revolution, it is a story of a man in the moon! and has no name, date, place, sum, sign, trace, circumstance, fact, or supposition to rest upon!

The pretension, then, of this right by discovery, and by purchase, so tardily brought forward in October, 1818, are absurdities which the British could not, and did not, support; and which they have since totally abandoned. This abandonment was made in 1827—at the time when the convention of 1818, being about to expire upon its limitation of ten years—was renewed until one of the parties chose to terminate it by giving twelve months' notice. It was made by Messrs. Huskisson and Addington, in their formal negotiations with Mr. Galatin for the renewal of the convention of 1818. In that negotiation, they delivered a paper to the American negotiator, in which the British claim to the Columbia is referred—and for the first time referred—to the Nootka Sound convention of 1790! Hear it!

"The rights of Great Britain are recorded and defined in the convention of 1790: they embrace the right to navigate the waters of those countries—to settle in and over any part of them, and to trade with the inhabitants and occupiers of the same. These rights have been peaceably exercised ever since the date of that convention; that is, for a period of nearly forty years. Under that convention, valuable British interests have grown up in that quarter."

Here is a complete abandonment of the claim founded on discovery and purchase before the Revolution! That claim, set up for the first time in 1818, is abandoned in 1827!—and the Nootka Sound convention, which had never been vouched before, is then paraded as the instrument in which the "rights" of Great Britain are "recorded" and "defined;" and under which valuable "British" interests had grown up in that quarter. This is, at least, an admission that the discovery and purchase brought forward as the foundation, and the sole foundation, of the British claim in 1818, were unfounded and supposititious! and not only relieves us from all further attentions to such intimations, but gives us the benefit of a legal maxim, as universal in its application as it is just and reasonable in its principle!—that maxim which discredits the whole title, in support of which an untruth has been adduced.

But the British "right" to the Columbia now rests upon the Nootka Sound convention; since the year of our Lord 1827, their claim to this country has become a "right," and this "right" has established itself in the musty record of the Nootka Sound convention! Be it so! We will quickly see what that convention is worth to them. For that purpose we may look to the convention itself, or to the character of it given in the British House of Commons at the time of its negotiation. The first article of the treaty restored the British to their

fishing and hunting privileges and buildings in Nootka Sound. The third article granted the limited privilege of fishing and hunting on certain other parts of the coast; and the sixth article limited the buildings which might be erected to the temporary huts necessary for the hunters and fishermen. This was the treaty. Listen to Mr. Fox. After denouncing the treaty as one of concessions, and not of acquisitions, on the part of Great Britain, he goes on to say:

"Our right before, was to settle in any part of the south or north-west coast of America, not fortified against us by previous occupancy: and we are now restricted to settle in certain places only; and under certain restrictions. This was an important concession on our part." \* \* \* "Our right of making settlements was not, as now, a right to build huts, but to plant colonies, if we thought proper."

"By the 8d article, we are authorized to navigate the Pacific Ocean and South Seas, unmolested, for the purpose of trading with the natives. But, after this pompous recognition of right to navigation, fishery, and commerce, comes another article, (the sixth,) which takes away the right of landing and erecting even temporary huts, for any purpose but that of carrying on the fishery; and amounts to a complete dereliction of all right to settle in any way for the purpose of commerce with the natives."

This was the language of Mr. Fox; and under this language, Mr. Pitt (the author of the convention) sunk down and admitted that no new rights were gained under the treaty: that nothing had been gained but the acknowledgment of the pre-existing right of fishing, trading, and navigating the Pacific Ocean! Hear him:

"In answer to this, Mr. Pitt maintained that, though what this country had gained consisted not of *new rights*, it certainly did of new advantages. We had before a right to the Southern whale fishery, and a right to navigate and carry on fisheries in the Pacific Ocean, and to trade on the coasts of any part of north-west America; but that right not only had not been acknowledged, but disputed and resisted; whereas by the convention, it was secured to us—a circumstance which, though no *new right*, was a new advantage."

This (said Mr. B.) is the Nootka Sound treaty, which is now relied upon to establish the British right to the Columbia. Under this treaty they have taken possession of the Columbia, although 500 miles from Nootka, and having no connection with it. Under this treaty a British colony is growing up there; and in protection of this colony, the British now declare their determination to maintain their ground. The same paper from Mr. Huskisson and Mr. Addington, which vouched the Nootka convention for the record and the definition of their "right," proceeds to say:

"Under that convention, valuable British interests have grown up in these countries. \* \* \* In the interior of the country in question, the sub-

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jects of Great Britain have had for many years settlements and trading posts. Several of these posts are on the tributary streams of the Columbia; several upon the Columbia itself; some to the northward, and others to the southward of that river. And they navigate the Columbia as the sole channel for the conveyance of their produce to the British stations nearest the sea, and for the shipment of it from thence to Great Britain. It is also by the Columbia that these posts and settlements receive their annual supplies from Great Britain.

To the interests and establishments which British industry and enterprise have created, Great Britain owes protection. That protection will be given both as regards SETTLEMENT and FREEDOM OF TRADE AND NAVIGATION, with every attention not to infringe the co-ordinate rights of the United States; it being the desire of the British Government, so long as the joint occupancy continues, to regulate its own obligations by the same rules which govern the obligations of every other occupying party."

Have grown up there, and will be protected! British interests have grown up on the Columbia; and the British Government owes protection to these interests, and will give it! This is now the language of British ministers; and this is what we have got for forty years' forbearance to assert our title! The nest-egg laid by British diplomacy, has undergone incubation, and has hatched, and has produced a full-grown bird—a game cock—which has clapped his wings and crowed defiance in the face of the American eagle! and this poor eagle, if a view could be got of him as he stood during the "informal conferences" between Mr. Webster and Lord Ashburton, would be found (no doubt) to have stuck his head under his wing, and hung out the white and craven feather.

British interests have grown up on both sides of the Columbia—to the south as well as to the north of the river—and it is the intention of the British Government to protect the whole. So say Mr. Huskisson and Mr. Addington. But this is diplomacy—modern diplomacy—equivalent to finesse. The south of the Columbia has not been seized to be retained, but to be given up! The north is to be retained, for that is the commanding bank. The south is only seized to be given up as an equivalent, according to the modern system of compromising, so successfully introduced in the case of Maine. Seize all! then give back half! call this a compromise! and there will be people (for the minds of men are various)—there will be people to applaud the fine arrangement, and to thank God for such a happy deliverance from war. No, sir; no. This is a joke about holding on to the south bank. The settlements made there are for surrender; not for retention. They are made there to be given up as equivalents for what is taken from us on the north; and thus settle the Columbia question according to the precedent of Maine.

But the settlements on the north bank: their protection is no joke. The British mean to

hold on to them, for they command the remainder. The Nootka Sound controversy is to have the effect upon us which it could not have upon the Spaniards forty years ago. In vain the lighted match was brandished over the British cannon in the affair of Nootka in 1790; in vain immediate and bloody war was threatened. The Spanish Government, though old, decrepit, and tottering under the feeble sway of Charles IV. and the favorite Godoy, had yet too much of the Castilian blood in it to prefer dishonor to war. They prepared for war! and the British, seeing that the Don could not be bullied, relinquished their high pretensions of colonization and settlement, and accepted the humble privilege of fishing, and hunting, and sailing the high seas. This is the way the old Nootka controversy between Spain and England ended fifty years ago. After the experiment which the British have just made of our peace-loving temper, it is not to be supposed that we shall get out of the new Nootka scrape without seeing the match applied to the priming, or having the cup of dishonor held to our lips until we drink it to the dregs.

They have the possession of the country: while the possession by right, by treaties, and by the admission of the British themselves, belongs to us. This was admitted during the negotiations of 1818. Mr. Rush, in a letter to Mr. Adams of February, 1818, bears testimony to this admission. He says:

"It is proper, at this stage, to say that Lord Castlereagh admitted, in the most ample extent, our right to be reinstated, and to be the party in possession while treating of the title."

This was the admission of Lord Castlereagh while negotiating the convention of 1818. He had admitted our right to be reinstated—that is, to be restored to the possession which we had before the war, and of which war had deprived us. This possession was not limited to the diagram of earth covered by Mr. Astor's fort, but to the country of which it was part. To give up this diagram covered by a fort, and then go and take possession of all the country besides, was not a restitution, no more than it would have been to have taken possession of Michigan after giving up Mackinaw, or of Maine, after giving up Castine. We have a right to the possession, while treating of the title; but we have not the possession; and this bill, which professes merely to obtain a part of what is due to us, is resisted, because it implies the assertion of an exclusive possession, and may be a breach of the convention of 1818. This is a mistake. Exclusive can only be to the extent occupied. The British now have exclusive possession of the ground covered by Fort Vancouver, Fort Colville, and other forts, and of all the ground which they cultivate. They have forts, houses, fields, and farms, and possess them exclusively. Our grants will be no more exclusive than theirs: they will only exclude to the extent of the grant.



The objection to the terms of this bill grow out of the third article of the convention of 1818—that article which gives mutuality of occupancy, for certain purposes, to the country claimed by each party, for ten years; an article which is continued indefinitely by the convention of 1828, subject to determination on one year's notice from either party. It is supposed that that article will prevent us from using our own property as we might have used it before that convention was made. This is a mistake; and the reading of the article itself will show that its object was to give the privileges of hunting, fishing, and navigation to the citizens and subjects of each power over the territories claimed by the other, without diminishing the power of each over the territories claimed by itself. This is clear from the article, which is in these words:

"It is agreed that any country that may be claimed by either party on the north-west coast of America, westward of the Stony Mountains, shall, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open for the term of ten years from the date of the signature of this convention, to the vessels, citizens, and subjects of the two powers; it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any part of said country; nor shall it be taken to affect the claims of any other power or State to any part of the said country; the only object of the high contracting parties, in that respect, being to prevent disputes and differences amongst themselves."

This (said Mr. B.) is clear and explicit. We acquire the right of going upon the British *claims* to hunt, fish, and navigate: they acquire the right to come upon our *claims* for the same purposes: the *claims* of each remaining precisely as they were. This is all clear. Now, what were the claims of each at that time? Ours was territorial, and definite and notorious to the Columbia River, from its head to its mouth. The letter of Mr. Adams to our ministers in London, and their letters to him, show that the British had no such claim; that they pretended none such; but only labored to abrogate the line of forty-nine degrees, and to lay a nest-egg for future pretensions south of that line. Their claims were in the north-west—far in the north-west—where McKenzie, Hearne, and other discoverers had gone, and where the fur companies had taken possession. Our claim covered the whole Columbia. Mutuality of occupancy in each other's claimed territories for ten years, without diminution of rights over our own claimed territories, was the extent of the stipulation; and, therefore, we might do upon our claim whatever we did before, subject to the navigation, trade, &c., with which it was encumbered. We might grant land before the convention; we can grant it since. We might plant a colony before the convention, and may

do it since; and the grant of land is the incident of colonization. In fact, we have placed no limitation upon our pre-existing rights.

And now, what has been the conduct of the British under this article? They have crossed the 49th degree—come down upon the Columbia—taken possession of it from the head to the mouth—fortified and colonized it—monopolized the fur trade—driven all our traders across the mountains—killed more than a thousand of them, (through their Indians,) and used the Columbia as a free port, through which they bring goods free of duty into our territories—up into the Rocky Mountains, and across them. This is what they have done by their agent, the Hudson Bay Company. In its own name, and by an act of Parliament immediately after the convention, the British Government has extended jurisdiction over the whole country, taking no notice at all of our claims, and subjecting all our citizens and their property to British judges, British courts, and appeals to Canada. This act has been read by my colleague, (Mr. LINN,) and I commend it to the consideration of all Americans who object to this bill for fear it may imply an exclusive jurisdiction! and so give offence to the British. This is what has been done by the British since the convention. They have taken possession of our claimed territory, of our harbor, our river—colonized the country—and killed and expelled our traders. What have we done? Nothing! So far from going into the North-west to hunt, fish, and navigate on their claims, we have been expelled from our own! and the *mutual* convention has become the means of the exclusive possession of the British! Our traders, left to contend single-handed against the organized Hudson Bay Company, against their Indians, against their free goods, have all been driven in—forced not only out of the valley of the Columbia, but out of the Rocky Mountains—and ruin has overtaken many of them. Even the strong and rich company of Mr. Chouteau can no longer approach the Rocky Mountains. The Hudson Bay traders are the masters there. Every American that approaches that region, does so at the peril of his life. Many were killed there this summer. And, in the face of all this, we sit here, fearing to pass this bill, lest it may give offence to the British.

It is time to terminate this convention of 1818; it is time to terminate the discreditable state of things in relation to the Columbia. It is a war subject, and the *peace* mission should have terminated it! No earthly consideration should have detached this question from the Maine boundary, and the other subjects of complaint. To separate them, was to surrender all the unsettled questions. The Columbia, and the Southern question in relation to slaves, were separated; and in that separation their sacrifice, or a war on account of them, was involved.

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Fine on General Jackson.

[JANUARY, 1848.]

## HOUSE OF REPRESENTATIVES.

SATURDAY, JANUARY 14.

*Fine on General Jackson.*

The resolution introduced by Mr. BOWNE, to instruct the Committee on the Judiciary to bring in a bill to refund the fine extorted from General Jackson, at New Orleans, in 1815, by Judge Hall, came up as the business of the morning hour.

The amendment submitted by Mr. ADAMS, to refer the subject with certain instructions to the same committee, being the pending question—

Mr. HUNT said: Having but a brief portion of the morning hour left him, he proposed, as succinctly as possible, to place before the House his own views of the legal grounds on which this case rested; and, in order to do that more intelligibly, he should endeavor to present to the notice of the House the laws bearing on it, exclusive of any opinions of his own. If he succeeded in getting through with the legal question before the expiration of his hour, he should then, with the leave of the House, proceed to give his own opinions on it.

Now, in order to understand the principles which ought to govern this question, he asked the House calmly to consider what it was. Laying out of view many of the circumstances which it would be necessary to take into consideration, and which would take from General Jackson all pretence that the proclamation of martial law was indispensable to the preservation of the city he defended, he would present a statement of facts, according to dates, which it would be important to consider in coming to a decision on this question. The battle of New Orleans, as was known to all, was fought on the 8th of January, 1815; and, on the 8d of March following, an article appeared in the New Orleans Courier, signed "A Citizen of Louisiana, of French origin," and which article was written by a Mr. Louallier. On the 5th of March, Louallier was arrested by order of General Jackson; and, on the same day, application was made to Judge Hall, the district Judge of Louisiana, for a writ of *habeas corpus* in his favor. The order was issued by the Judge; and in issuing it, the writ was made returnable on Monday, the 6th. The Judge dated the order on the 6th. It was ascertained, before the writ was issued, or before it passed out of his control, that there was a mistake; and the Judge was called on to correct it, which was done by dating it the 6th. On the evening of that day the counsel of Louallier, at the suggestion of Judge Hall, apprised General Jackson of these proceedings, and that a writ of *habeas corpus* had been issued. On that day Judge Hall himself was arrested by General Jackson's order; and, on the morning of the 6th, before breakfast, a court-martial was appointed to sit on the life of Louallier. Judge Hall was kept in confinement from the 5th to the 11th or 12th, and then taken by a guard of

regular soldiers without the limits of the city, and discharged. Gentlemen would find the truth of this statement in Senate Doc. No. 14 of the present session.

Now, the first question he wished to ask was this: had General Jackson any authority to declare martial law? He wished to meet this broad question, because he thought the time had arrived when it should be settled, while they could do it, instead of transferring it to posterity, when it would be more difficult of settlement. Had, then, General Jackson, or had any military officer, even in time of war, the right to proclaim martial law, and to suspend the civil proceedings of the tribunals of the country? It was important to answer this question; otherwise, it might become a precedent of the most dangerous import hereafter. He undertook to show that neither General Jackson nor any other military officer had any such authority, (and on this point he thought the country was much indebted to a writer who had been often quoted on this floor, in opposition to the right to such authority of any military power;) but he did not contend that, in time of war, a military commander might not find himself placed in circumstances as described by a gentleman from Kentucky, who had preceded him in this debate, in which an overruling necessity might compel him to invade the rights of property and of persons; but of that necessity such officer must judge, and act at his peril. He admitted that the necessity might exist for a commander to burn houses and take property; but the Government would be under the necessity of making compensation for property so destroyed or taken; and as it was overruling necessity that afforded the law for such procedure, there was not—there could not be—any provision made for it by law in advance. In illustration of this position, he showed that compensation was made for property destroyed in the defence of Baltimore.

He next quoted the 9th section of the 1st article of the constitution, which provides that "the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it;" and he asked who was to be the judge of that necessity? Was it the President of the United States, or any subordinate officer in command? No; it was the Legislature of the country that was the judge, and the only judge, of that necessity. He supported this position by citing the practice of Mr. Jefferson, who in 1807, as President of the United States, applied to Congress for a temporary suspension of the writ of *habeas corpus* for three months; which, however, was refused by the House of Representatives, where the bill was defeated, which had passed the Senate for that purpose. Where, then, was the authority found by which General Jackson proclaimed martial law? It was certainly not in the constitution; for he found no countenance for the exercise of it there; nor yet in the History of England,

whence the *habeas corpus*, as well as the principles of freedom, on which our system is based, was derived. The *habeas corpus* was one of the boons which the sturdy barons wrested from King John at Runnymede; and when had there been any attempt to suspend it there? Besides, eminent legal authority had distinctly stated that the doctrine of military or martial law, as laid down in Blackstone and Holt, had no application to England; and surely the inhabitants of this country ought to have as great protection for life and property, as was enjoyed there under that law.

The SPEAKER here announced that the morning hour had expired.

MONDAY, January 16.

*The Bankrupt Law.*

Mr. CLIFFORD inquired if this was not resolution day, and if resolutions were not in order from the State of Maine. As the Speaker was understood to assent, he offered a resolution to the effect that the Judiciary Committee be instructed to report forthwith the following bill to repeal the bankrupt act. [The bill referred to in the resolution simply provided that the bankrupt law "be, and the same is, hereby repealed."]

Mr. ARNOLD objected to the reception of the resolution.

Mr. TOLAND was also understood to urge some objection.

Mr. WINTHROP rose to a point of order; and inquired whether it was in order to introduce a resolution instructing a committee on a subject pending in the House.

Mr. CLIFFORD replied that this was a separate bill altogether, and essentially different from any other before the House.

The SPEAKER overruled all the objections which had been raised.

Mr. CLIFFORD moved the previous question on his resolution.

Mr. BRIGGS moved to lay the resolution on the table.

Mr. CLIFFORD called for the yeas and nays; which being ordered, resulted as follows—yeas 81, nays 110.

So the resolution was not laid on the table.

The question then recurred on seconding the previous question.

Mr. CAVE JOHNSON called for tellers, and Messrs. C. JOHNSON and JAMES were appointed; and, having taken the vote, they reported 91 in the affirmative, and 79 in the negative.

So the motion for the previous question was seconded.

The question recurred, "Shall the main question be now put?"

Mr. BARNARD called for the yeas and nays; which were ordered, and resulted—yeas 115, nays 88.

So the House ordered the main question to be now put.

The question was then taken on the resolu-

tion of Mr. CLIFFORD; and the yeas and nays having been ordered, it was decided in the affirmative, as follows:

YEAS.—Messrs. Landaff W. Andrews, Arrington, Atherton, Barton, Beeson, Bidlack, Birdseye, Black, Boardman, Bowne, Boyd, Brewster, Bronson, Aaron V. Brown, Charles Brown, Burke, William Butler, Green W. Caldwell, Patrick C. Caldwell, William R. Campbell, Thomas J. Campbell, Caruthers, Cary, Casey, Chapman, Clifford, Clinton, Coles, Colquhitt, M. A. Cooper, Cross, Daniel, Garrett Davis, Richard D. Davis, Dean, Deberry, Doig, Eastman, John G. Edwards, Egbert, Ferris, John G. Floyd, C. A. Floyd, A. Lawrence Foster, Gentry, Gilmer, Goggia, Wm. O. Goode, Gordon, Green, Gustine, Gwin, Harris, Hastings, Holmes, Hopkins, Houck, Houston, Hubbard, Hunter, Jack, Cave Johnson, Keim, Andrew Kennedy, Lewis, Littlefield, Lowell, Abraham McClellan, Robert McClellan, McKay, McKenna, McKeon, Mallory, Marchand, Alfred Marshall, Mathews, Mattocks, Medill, Miller, Mitchell, Morris, Newhard, Oliver, Owsley, Parmenter, Partridge, Payne, Pickens, Plumer, Pope, Proffit, Ramsay, Read, Reding, Rencher, Reynolds, Riggs, Rogers, Roosevelt, Sanford, Saunders, Sewell, Shaw, Sheperd, Shields, Wm. Smith, Snyder, Sprigg, Stearod, Stokeley, Alex. H. H. Stuart, John T. Stuart, Summers, Sweney, Taliaferro, John B. Thompson, Jacob Thompson, Tillinghast, Triplett, Trotti, Turney, Ward, Washington, Watterson, Weller, Westbrook, Wise, and Wood—128.

NAYS.—Messrs. Adams, Allen, Sherlock J. Andrews, Arnold, Baker, Barnard, Blair, Borden, Briggs, Milton Brown, Jeremiah Brown, Burnell, Calhoun, Childs, Staley N. Clarke, Cowen, Cranston, Cravens, Cushing, Dawson, John Edwards, Everett, Fessenden, Fillmore, Gates, Giddings, Patrick G. Goode, Granger, Halsted, Henry, Howard, Hudson, Hunt, Charles J. Ingersoll, Joseph R. Ingersoll, James Irwin, James, Wm. Cost Johnson, John F. Kennedy, King, Lane, Linn, Thomas F. Marshall, Samson Mason, Mathiot, Maxwell, Maynard, Moore, Morgan, Osborne, Pearce, Pendleton, Powell, Benjamin Randall, Randolph, Ridgway, Rodney W. Russell, James M. Russell, Slade, Truman Smith, Stanly, Stratton, Richard W. Thompson, Toland, Tomlinson, Trumbull, Van Rensselaer, Wallace, Warren, Edward D. White, Joseph L. White, Christopher H. Williams, Joseph L. Williams, Winthrop, Yorke, Augustus Young, and John Young—78.

Mr. BARNARD rose for the purpose of asking some directions from the Speaker, or the House, in regard to his duty in this matter. He understood the House as having passed an order that the Committee on the Judiciary should bring in a bill forthwith to repeal the bankrupt law; but there was a standing rule of the House conflicting with this order, which provided that no committee should hold its meetings while the House was in session. He wished to know how he was to act, so as to avoid a breach of one or the other of these rules.

Mr. WISE said that, in order to relieve the gentleman from New York of the difficulty he had suggested, he would move that the Committee on the Judiciary have leave to sit during the sittings of the House, till they had performed the duty assigned them.

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*Repeal of the Bankrupt Law.*

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Mr. BARNARD. Is that motion in order, Mr. Speaker? If it is not, I shall object to it.

The SPEAKER said that the motion was not in order; and

Mr. WISE appealed from that decision. He would appeal to the House if, after the vote just given, it was not the duty of the Committee on the Judiciary to report the bill "forthwith."

Mr. THOMPSON, of Indiana, moved to lay the appeal on the table; and

Mr. CLIFFORD called for the yeas and nays on that question; which were also ordered.

The question was then taken on laying the appeal on the table, and decided in the affirmative—yeas 104, nays 91.

The SPEAKER continued the call for resolutions from the State of Maine.

Mr. LOWELL offered a resolution to authorize the Committee on the Judiciary to sit during the session of the House, for the purpose of taking the necessary steps to comply with the resolution of the House directing them to report a bill "forthwith" for the repeal of the bankrupt law. He also moved the previous question.

Mr. R. W. THOMPSON moved to lay the resolution on the table. [Loud cries of "The yeas and nays."] ]

Mr. FILLMORE hoped the gentleman from Maine would withdraw his resolution, as the whole subject would certainly require some discussion.

Mr. LOWELL did not comply, and the yeas and nays were ordered; and, being taken, resulted as follows—yeas 87, nays 105.

So the resolution was not laid on the table.

The question then recurred on seconding the demand for the previous question.

Messrs. READ and POPE were appointed tellers; and they reported 81 in the affirmative, and 79 in the negative; so there was a second.

The main question was then ordered to be now put; and the resolution was adopted by a vote of ayes 112, nays 81.

TUESDAY, January 17.

*Repeal of the Bankrupt Law.*

Mr. BARNARD, from the Committee on the Judiciary, reported the following bill:

A BILL to repeal the bankrupt law.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved on the 19th day of August, 1841, be, and the same is hereby, repealed.

*Provided, however,* That the repeal shall not extend to or affect any case which, at the time this act goes into effect, shall be pending before any court; nor to any proceeding which, at said time, shall have been legally commenced, and which shall be then in progress, under and by virtue of the said act hereby repealed.

The bill was read a first time.

Mr. BARNARD objected to its second reading, which he said he could do under the rule, which forbade the second reading of a bill on the same day it was reported, unless no objection was made.

Mr. CAVE JOHNSON said that the second reading of the bill having been objected to, the question would come up before the House, "Shall this bill be rejected?"

Mr. CLIFFORD remarked that the parliamentary law was imperative in requiring the question to be taken on the rejection of the bill, after the objection made to its second reading by the gentleman from New York, (Mr. BARNARD.)

The SPEAKER said that, by reference to the 109th rule of the House, he found that, if objection was made to the *first* reading of the bill, the question would *then* ensue upon its rejection. By that rule, no bill could have its first and second reading on the same day, without a special order from the House.

Mr. CAVE JOHNSON. Let us make it the special order *now*.

The SPEAKER said, that he was clearly of opinion that the House had the right to order the bill to be read a second time now.

The bill was then read the second time; when

Mr. TURNER rose, and said that he wished to offer an amendment to the bill; but,

Mr. BARNARD rising, the Speaker awarded the floor to that gentleman.

Mr. B. then, under instructions from the Committee on the Judiciary, moved to recommend the bill to that committee, with instructions to report amendments.

Mr. WISE then asked what would be the effect of the previous question.

The SPEAKER was understood to say that it would bring the House to a vote on the engrossment of the bill.

Mr. WISE inquired whether it would cut off the proviso.

The SPEAKER replied in the negative.

Mr. WISE. Then I move the previous question. I am in favor of the proviso. [Great excitement.]

Mr. BARNARD. Mr. Speaker, if this motion—

Mr. WISE (amidst much confusion). Mr. Speaker, is this in order?

The SPEAKER replied, but his voice was overpowered by the hum of excited conversation throughout the hall.

Mr. WISE. Mr. Speaker, I cannot hear a word. [Great confusion.]

Mr. BARNARD. If this motion had been made in the ordinary way—

Mr. WISE again interposed, and exclaimed that he could not hear a word that was said.

The SPEAKER called the House to order.

Mr. BARNARD then resumed, and said if this motion had been made in the ordinary way, on the commitment of the bill, and the previous

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[27th Conv.]

question was sustained, he was aware it would bring the House directly to a vote on the main proposition; but the Speaker would remember that the motion was not made by him as an individual member of the House, but as the organ of the Judiciary Committee, and in the form and shape of a report from that committee; and in such a case, he submitted, the rule did not apply; and that if the previous question was seconded, the vote must first be taken on the report of the Judiciary Committee.

The SPEAKER's reply did not reach the reporter's desk.

Mr. BARNARD inquired whether the House could cut off the report of a committee.

The SPEAKER replied that it was for a majority of the House to determine.

Mr. WISE asked the Clerk to read the bill as it would stand if the previous question was seconded.

The Clerk read the bill, as submitted yesterday by Mr. CLIFFORD, simply repealing the bankrupt law, with the proviso submitted by Mr. TILLINGHAST.

Mr. WISE said he would stick to the previous question.

The Speaker put the question on seconding the demand for the previous question, but he was unable to decide. Tellers were then demanded, and Messrs. WELLS and BRIGGS were appointed; and having taken the vote, they reported 92 in the affirmative, and 88 in the negative. There was, therefore, a second.

Mr. BARNARD. Mr. Speaker, has the morning hour expired? (It was 10 minutes past 1.)

The SPEAKER. It has.

Mr. BARNARD. Then I call for the orders of the day.

The SPEAKER. The order of the day is the further consideration of the bill for the repeal of the bankrupt law. [Roars of laughter.]

[This bill, which was now the order of the day, was the bill some time since introduced by Mr. EVERETT, to which various amendments had been offered, and on which Mr. MARSHALL was entitled to the floor from the middle of last week.]

And the state of the question was this:

Mr. BARNARD had moved the following amendment to (or substitute for) the original bill:

"That so much of the act entitled 'An act to establish a uniform system of bankruptcy throughout the United States,' approved on the 19th of August, 1841, as authorizing any person owing debts to apply by petition, for the benefit of said act, together with all the parts of said act which are applicable solely to the mode of obtaining the benefit of the provisions of such act, in behalf of debtors, by the voluntary petition of such debtors, without the concurrence or aid of their creditors, be, and the same is hereby, repealed: *Provided*, That this act shall not affect any case or proceeding in bankruptcy already commenced, or which shall be commenced before the 4th day of July next, or any pains, penalties, or forfeitures, prescribed and incurred, or which shall be incurred, under said act."

And Mr. CUSHING had offered the following amendment to the original bill:

"In the proviso of the original bill, strike out the '5th day of December, 1842,' &c., and insert so that the proviso shall read as follows. '*Provided*, That this act shall not affect any case or proceeding in bankruptcy commenced before the passage of this act, or any pains, penalties, or forfeitures incurred under this said act; but every such proceeding may be continued to its final consummation, in like manner as if this act had not been passed.'"

Mr. BRIGGS had moved that the bill be committed to the Committee on the Judiciary, with the following instructions:

"To report a bill to repeal that part of the existing law which authorizes the voluntary application of debtors, and to include corporations which issue paper to circulate as money, within the operation of said law."

Which proposed instructions Mr. C. JOHNSON had moved to amend, so as to instruct the committee to report a bill for the immediate repeal of the bankrupt law, without limit or qualifications; [simply, in fact, striking out the proviso of the original bill of Mr. EVERETT.]

Mr. MARSHALL rose, and said he would not be responsible for any delay of the action of this House on the subject of the bankrupt law; and he moved the previous question.

Mr. CUSHING protested against the motion.

Mr. WISE inquired, if the previous question was sustained, and the main question was ordered to be put, and the amendment of the gentleman from Massachusetts (Mr. CUSHING) should be adopted, whether the bill would not then be, in substance, the same as the bill to be acted upon to-morrow morning?

Mr. CUSHING. Precisely.

Some conversation ensued as to the priority of the amendments; and

Tellers were demanded on seconding the motion for the previous question; and they reported 110 in the affirmative, and 28 in the negative; there was, therefore, a second.

The question recurred on the amendment of the gentleman from Massachusetts, (Mr. CUSHING.)

The amendment was then adopted—yeas 148, nays 62.

The question next came up upon the amendment of the gentleman from New York, (Mr. BARNARD.)

Mr. MOORE asked for the yeas and nays; and they were ordered.

The amendment was then rejected—yeas 73, nays 136.

The SPEAKER announced the question to be upon the engrossment of the bill; and it was ordered to be engrossed.

The CHAIR. When shall the bill have its third reading?

Many members. "Now."

Mr. ARNOLD rose and objected, upon the ground that the bill was not yet engrossed.

The SPEAKER said that the bill must go

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over until to-morrow, unless by unanimous consent.

Mr. EVERETT moved that the bill be read again to-day.

The SPEAKER said that the bill not being engrossed, that could not be done but by general consent.

Mr. HOPKINS said that it could be done by order of the House.

Mr. EVERETT moved a suspension of the rule.

The question was then put on the suspension of the rules—and decided in the affirmative—ayes 143, noes 28.

Mr. GRANGER called for the yeas and nays on the passage of the bill; which being ordered,

It was read the third time and passed, as follows:

YEAS.—Messrs. Landaff W. Andrews, Arrington, Atherton, Barton, Beeson, Bidlack, Birdseye, Black, Boardman, Botta, Bowne, Boyd, Brewster, Bronson, Aaron V. Brown, Burke, W. Butler, W. Q. Butler, Green W. Caldwell, P. C. Caldwell, William B. Campbell, Thomas J. Campbell, Caruthers, Cary, Casey, Chapman, Clifford, Clinton, Coles, Cowen, Daniel, Garrett Davis, Richard D. Davis, Dean, Deberry, Doan, Doig, Eastman, John C. Edwards, Egbert, Everett, Ferris, John G. Floyd, Charles A. Floyd, Fornance, Gentry, Gerry, Gilmer, Goggin, Patrick G. Goode, William O. Goode, Gordon, Graham, Green, Gustine, Harris, Hastings, Hays, Holmes, Hopkins, Houck, Houston, Hubard, Hudson, Hunter, Charles J. Ingersoll, Jack, Cave Johnson, Keim, Andrew Kennedy, Lewis, Littlefield, Lowell, Abraham McClellan, Robert McClellan, McKay, McKennan, McKeon, Mallory, Marchand, Alfred Marshall, Thomas F. Marshall, Mathews, Mattocks, Medill, Mitchell, Morris, Newhard, Oliver, Osborne, Owaley, Parmenter, Partridge, Pickens, Plumer, Pope, Proffit, Ramsay, Rayner, Read, Reding, Rencher, Reynolds, Rhett, Riggs, Roosevelt, Sanford, Sewell, Shaw, Shepperd, Shields, Slade, Truman Smith, Snyder, Sprigg, Stanly, Steenrod, Stokely, Alexander H. H. Stuart, John T. Stuart, Summers, Sumter, Sweeney, Taliaferro, John B. Thompson, Jacob Thompson, Tillinghast, Triplett, Trotti, Trumbull, Underwood, Van Buren, Ward, Washington, Waterson, Weller, Westbrook, Wise, Wood, and Augustus Young—140.

NAYS.—Messrs. Adams, Allen, Sherlock J. Andrews, Arnold, Ayer, Babcock, Baker, Barnard, Borden, Briggs, Milton Brown, Jeremiah Brown, Burnell, Calhoun, Childs, John C. Clark, Staley N. Clarke, Cranston, Cravens, Cushing, John Edwards, Fessenden, Fillmore, Gates, Granger, Henry, Howard, Hunt, Joseph R. Ingersoll, James Irvin, William W. Irwin, James, William Cost Johnson, Isaac D. Jones, John P. Kennedy, King, Lane, Linn, Samson Mason, Mathiot, Maxwell, Maynard, Meriwether, Moore, Morgan, Morrow, Pearce, Pendleton, Powell, Benjamin Randall, Randolph, Ridgway, Rodney, William Russell, James M. Russell, Saltonstall, Stratton, Richard W. Thompson, Toland, Tomlinson, Van Rensselaer, Wallace, Warren, Edward D. White, Joseph L. White, Thomas W. Williams, Christopher H. Williams, Joseph L. Williams, Winthrop, Yorke, and John Young—71.

So the bill was passed.

## IN SENATE.

WEDNESDAY, January 18.

*The Oregon Territory.*

The CHAIR announced the order of the day to be the unfinished debate on the passage of the bill for the settlement and occupation of the Territory of Oregon.

Mr. CHOATE, being entitled to the floor, addressed the Senate for nearly two hours. The two main topics upon which he dwelt, were: first, the question of the proposed grant of lands to settlers, as an infraction of the convention between this country and Great Britain, established for ten years in 1818, and renewed in 1827, to continue from year to year until discontinued by a year's notice from either party; and next, the question of the settlement of other difficulties with England by the late treaty, without also settling that in relation to the Oregon Territory.

In the course of his remarks, he stated that his only objection to the bill was in relation to the provision making a grant of lands. If it was recommitted, and that provision was stricken out, the rest of the bill should have his hearty concurrence. Even if the bill remained in its present shape, and it could be satisfactorily proved to him that this provision, which proposes a grant of land to settlers, is not an infraction of the treaty, he would give it his support. He would go further; he would say, that if the year's notice were given of our intention to relinquish the treaty with Great Britain, he would, after the cessation of our obligations under it, most cheerfully support a bill of this kind. But he conceived the whole question, at present, was, whether this bill, in its present form, would not be a violation of our obligations under the treaty; and that it would, he had not now the slightest doubt.

Here Mr. C. went into an examination of the terms of the treaty, with a view of showing that the only occupation or settlement which could take place in good faith, was a joint occupation and settlement for purposes of trade, hunting, and trapping; and that Great Britain never had in any single instance otherwise interpreted the treaty, or acted upon it. Her encouragement of the Hudson Bay Company was for purposes of trade and hunting, strictly in conformity with the treaty. If the company had built forts and made settlements, it was in furtherance of the objects of trade, and carrying on the trapping and hunting in which it was engaged. It was perfectly open to us, under the treaty, to do the same. He denied that England had extended over the country an exclusive jurisdiction. She only applied her own laws to her own subjects. We might do the same. If it could be shown that she ever granted away a single acre of the territory, or exercised an exclusive right of that kind, he would then say that we might do the same. But no such thing could be shown, for it had not been done.

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As to the allegations that England, in a communication with the ministers of our Government, had said that British interests had grown up in the territory which should and would be protected, he contended, that taking the whole context, and giving what followed in the sentence, so far from this being an assertion of exclusive right, or a threat of possession against the United States, the most direct reservation was made of the rights of the United States to joint occupation and interest in the territory under the treaty, by which both countries were bound. He read the passage in full, with a view of showing the correctness of his view of the avowal made by England.

In commenting upon the speech of the Senator from Missouri, (Mr. Benton,) who had preceded him in the discussion when the subject was last up, he took occasion to remove an erroneous impression, which he conceived was calculated to do great injustice to a distinguished man, (Mr. Webster,) who could not here defend himself. He alluded to the fears expressed by the Senator from Missouri, that the President's Message declining to furnish the correspondence, or informal communications, relative to the pending negotiation about the Oregon Territory, implied grounds for concluding that propositions had been made by our Secretary of State, which the Administration was ashamed or afraid to avow; that, in fact, the rumor must be correct which had got abroad, that a proposition had been made or entertained, by the Secretary of State, to settle down upon the Columbia River as the boundary line. Now, he was glad to have it in his power to undeceive the Senator, and to assure him, which he did from authority—for he had been requested by the Secretary himself to do it for him—that he never either made or entertained a proposition to admit of any line south of the 49th parallel of latitude, as a negotiable boundary line for the territory of the United States.

The Senate adjourned.

TUESDAY, JANUARY 24.

*Oregon Territory.*

The bill for the occupation and settlement of the Territory of Oregon came up on its passage, as the unfinished business of yesterday.

Mr. WOODBURY, who was entitled to the floor, addressed the Senate at considerable length in support of the bill.

He considered the Oregon Territory as uncontestedly ours, as any other of our possessions. There was no more reason against our occupying it, than there could have been against our exercising jurisdiction over Iowa or Wisconsin when we placed them under our territorial government. There could be only one of two objections to our exercising the same ownership—one of which was, that we entertain some doubt of our title; and the other,

that it may be inexpedient to exercise our undoubted right.

To neither of these reasons could he accede. Indeed, so far as regards the first, he was glad to find that there was not a single member of the Senate who seemed to entertain the slightest doubt of our just title to the entire of the territory. All contend that our right to all we claim is indefeasible. Why, then, should there be any hesitation about exercising our ownership over the territory? The dispute between us and England never can be about that; for she does not profess to deny our right to territory. She may reasonably confine us to the letter of the existing treaty; but, in doing this, she is necessarily bound to show that she conforms strictly to it herself. If she gives it a construction which we hitherto have not given to it, she can have no just cause of complaint should we adopt her construction. But, in truth, that treaty can neither give nor withhold rights of territory, and the exercise of sovereignty; for it is expressly limited to a specific purpose—that of securing, during its continuance, the free and open intercourse of the citizens of one of the contracting parties, and subjects of the other, for purposes of trade and commerce, leaving the rights of the respective parties untouched. As, then, England gains no right over our portion of the territory but that of freedom to trade, like that of our own citizens—for which she concedes an equivalent right to our citizens over her portion of territory, if she has any—what other country can dispute our exercise of jurisdiction? Not France, for she sold to us all possible claim she could have derived; not Spain, for her title is transferred to us; and certainly not Russia, for we do not propose to encroach upon her southern boundary beyond the 54th degree of northern latitude. No other country under heaven can have any pretension to our territory; and we have seen that the existing treaty with England, so far from giving her any, expressly stipulates that its obligations shall not be construed in any manner to affect title. If she was not conscious that she could set up no claim of her own, she would not endeavor to make the world believe that her object is, in contending for the narrow slip of land really in dispute north of the Columbia River, merely to keep open, for the benefit of all nations, a free port at the mouth of that river. And even this she did not think of till we made a settlement there. This is not the first time she has interfered to prevent enterprises for the advancement of our commerce. Mr. W. here mentioned several instances of like interference.

The question is, what are our rights? We derive them either by purchase, discovery, or by treaty. If she has any, she must show as good a title, or yield that ours is superior; and this sets at rest her claim. She did not purchase the undoubted title of Spain to all her rights on the North-west coast, as we did; she did not discover the Columbia River, as we did; and

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with regard to treaties, it has been shown, over and over again, that she acquired no right to soil or territory under any one to which she has been a party. There is nothing of the kind in her treaty with Russia, in her treaty with Spain, or in her treaty with ourselves. In no one of these treaties has she gained an iota of claim to soil or territory. She is granted nothing but a joint use of the right to fish, hunt, trade, or navigate.

There is not a word in the treaty of 1818 about joint occupation or settlement. We do not look to that treaty for our right to occupy or to settle our territory of Oregon. We stand upon our incontestable title. Neither can she derive from it what it does not directly or indirectly mention. It is merely a treaty of trade and commerce, to be free and open to the subjects and citizens of the two powers. We might sign a treaty to-morrow, giving England an equal right with our own citizens to free trade with the port of New York, but who could be so absurd as to contend that we thereby conveyed to her a joint occupancy and joint right of settlement on the soil and territory of New York to the defeasement of our own title?

By the treaty of 1818, renewed in 1827, the citizens and subjects of both powers are undoubtedly entitled to a free and open exercise of intercourse for purposes of trade and commerce. On our part, we refrain from exacting duties on goods belonging to British subjects found on our territory; and England guarantees the same with respect to our citizens on territory claimed by her. This is the true, and only true, meaning and spirit of the treaty.

Mr. W. here entered upon a critical examination of the treaty of 1818, and its renewal in 1827, showing that no other construction could be put upon the wording of both, than that which he had given. In confirmation of this, he cited various passages in the communications from the British ministers in every convention or negotiation held with them from the time of the treaty of 1818, to the time that the renewal of the charter of the Hudson Bay Company gave a new impetus to its encroachments, and induced it to seek a pledge from the British Government for the protection of any interests which might grow up in its settlement. At the time of negotiating the renewal of the treaty of 1818, in 1826, the very propositions for additional stipulations which the British minister made, show that England never did construe the treaty as reaching to any thing but trade and commerce; and the refusal of our negotiators to admit those additional stipulations showed that we peremptorily refused to grant the right of joint occupation and settlement.

Mr. W. here quoted in full the various propositions alluded to, and conclusively established his position from concurrent testimony.

It was clear, then, that, in carrying out the provisions of this bill, we would in no wise interfere or act in conflict with our obligations by treaty, so long as we take care not to inter-

rupt the right of British subjects to the free and open pursuits of objects of trade and commerce. The question, then, was narrowed down into a very small compass. There can be no doubt of our right to the territory: on that, all were agreed. The treaty cannot restrain us from the exercise of that right, for it has no bearing whatever upon it; and, therefore, the remaining thing to be settled is the question of expediency. That, too, he conceived, now admitted of no doubt.

That it is expedient to go as far as present as this bill proposes to go, he was perfectly satisfied—satisfied that, in doing so, we would not only give no just grounds of complaint to Great Britain, but that it would be the means of preventing future and more formidable, because more accumulated, causes of difficulty with that Government. But, independent of this consideration, there was another, which he thought imperative; and it was, that our citizens, who have cast their fortunes in the territory, claim our protection, and it is our duty to grant it. It is the duty of the United States to protect our citizens in their lawful pursuits on every portion of our territory, no matter how remote or inconvenient from the nucleus of Government. It is the duty of Congress to extend its territorial laws for the benefit of those remotely settled citizens.

It is especially expedient that all this should be done now, and quickly; seeing that the longer neglect of fulfilling this duty is laid hold of by a rival power as a ground for enlarging and strengthening pretensions which never could have arisen, had we made a timely effort to secure our rights from cavil. Besides the duty which binds us to protect our citizens in this territory, we owe it to our commercial interest, in distant seas, to provide for them a harbor of shelter, such as the Columbia alone affords, on the North-west coast. Our fleet stationed in the Pacific, for the protection of our commerce, is entitled to the facilities which we should create there for re-equipment, refitting, and revictualling. We should have a fort there, which would serve them as a naval station, with our citizens around it ready at all times to make a market with their productions for the wants of our marine service in that distant quarter. England could not be jealous of this, for she has done the same thing. And, independent of all these considerations, there is another class of beings to whom we owe obligations which it is our duty to fulfil. He alluded to the aborigines of the territory. It is our duty to extend to them protection, and there is abundant evidence that they stand in need of it. It is our duty to introduce among them the arts of civilization, and the lights of the gospel. In no other way can we so well, so effectually, and so cheaply fulfil all these duties, as by carrying out the provisions of this bill.

Mr. PHELPS remarked that, as a member of the committee which reported the bill, he concurred in the general views taken by the com-



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mittee; and in respect to the general conditions involved in the bill, he believed the committee were unanimously in favor of them. With the views of Senators he had nothing to say; but he felt it his duty, as a member of the committee, to vindicate the bill from the charge that its provisions came in conflict with the convention made between this Government and Great Britain for the joint occupation of the Territory of Oregon. He would only say that, if such was the effect of the bill, it departed very widely from the purposes of the committee in agreeing to it. There was nothing further from their purpose than to involve this country in a difficulty with the most powerful nation on the globe, by a violation of the rights of that nation under the convention alluded to. He was confident that the bill, as it stood under the new modification, did not conflict with that convention, but was in conformity with the construction Great Britain herself put upon its provisions.

As the bill came from the committee, it provided that one section of 640 acres of land should be given to each white male inhabitant who might settle in that territory; but, under the new modification, it provided that provision shall be made by law for the granting of 640 acres to each settler. The provision, as it stood, made the grant of land; but the modification says that provision shall be made by law to grant it. The modification, he conceived, made no difference; for the principle at the back of it was the same. The great question, and only question, was, whether the bill came in conflict with the convention or agreement between the two countries. He believed that it was perfectly harmonious with the convention, if they put upon that convention the construction which the Senator from New Hampshire (Mr. Woodbury) showed had been placed upon it by England herself—as that of a commercial treaty only. If it did even extend so far as to prohibit the settlement of the country at all, the bill did not conflict with the convention, because it proceeded on the principle of a prospective settlement—of holding out inducements merely to our citizens to settle there. Great Britain could have nothing to do with it, even under the latter construction, until the act was carried into effect—that is, by hereafter making the grant which was guaranteed in the bill. The bill only holds out the inducement to our citizens to go and make settlements, but not to take exclusive and permanent possession of the country. The bill could not be made a subject of complaint by Great Britain, until the grant of land was actually made, and the country taken possession of, or the citizens occupying lands under title from the United States came in conflict with British subjects. There was a stronger ground still. The question raised was, as to the purport of the convention of 1818—how far did it permit citizens of this country to occupy that territory. The provisions of the convention

were, simply, that any portion of the country claimed by either of the parties to the convention should, from the signing of that convention, be free and open to the subjects and citizens of both Governments; and that its provisions should not be construed to prejudice any claim of this country, or right to the territory. The joint occupation was not, in terms, for purposes of trade, or for purposes of settlement. The convention was general; and whether it allowed of permanent settlements in the country, or not, was a question of construction. If England complains of the action of Congress, it must be on the ground that we misunderstand the construction of that convention. If we follow the construction given to it by her, there can be no question as to the propriety of the passage of this bill. Mr. P. then cited from the law of Parliament resting on the convention, in favor of the Hudson Bay Company, a provision to the effect that nothing in that act should be construed to allow any body corporate to make grants, or to exercise the rights of trade with the Indians, to the exclusion of citizens of the United States of America. He then quoted further provisions of the law, which went conclusively to prove that the treaty was one of trade and commerce with the Indians merely, and that the rights of the United States were scrupulously guarded. He then quoted other provisions of the act of Parliament extending the laws of Canada over the portions of that territory at the disposal of the Hudson Bay Company, as a justification of the provision of this bill which authorized the courts of the United States to extend their jurisdiction over the American settlements in that territory.

Mr. P. then went on to say that the promise of a provision hereafter, by Congress, of a grant of lands to settlers, is of the same nature as our pre-emption rights allowed in the States and Territories of the United States. It is not necessary that the grant of lands should precede the occupancy. Our system has been to permit the occupancy first, giving a pre-emption right, which is to secure the possession afterwards. The provision of this bill would act in like manner. It would be viewed in the light of a pre-emption right to such portion of territory as should belong to us.

It is not necessary for England to make such a law for the encouragement of her settlers. No one but the Crown can dispute title with them. The mere possession and continued occupancy is sufficient title to insure the grant from the Crown at some future time, and is relied upon as safely as if secured by act of Parliament. The subjects of Great Britain already have this possession and occupancy; and to place our citizens on an equal footing, it is indispensable that we give them the assurance which this bill proposes—which is the mode in which we always secure settlers in our new territories.

No man in the Senate was more opposed to war than he was. He knew that peace was

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essential to the interests of this country. He knew that it suited best with the habits and pursuits of our people. He could not, therefore, lightly advocate any thing calculated to produce collision with a foreign power. But, although he would not wantonly enter into conflict, he could not, to shun it, give countenance to an act so absurd as that of a mere idle assertion of our rights without an accompanying and absolutely necessary provision for exercising them.

Mr. CALHOUN said it ought to be borne in mind, in the discussion of this measure, that there is a conflict between our claim and that of Great Britain to the Oregon Territory; and that it extends to the whole territory from the Rocky Mountains to the Pacific Ocean; and from the northern limits of Mexico, in latitude 42, to the southern limits of the Russian possessions, in latitude 54. Nor ought it to be forgotten that the two Governments have made frequent attempts to adjust their conflicting claims, but, as yet, without success. The first of these was made in 1818. It proved abortive; but a convention was entered into, which provided that the territory should be left free and open to our citizens and the subjects of Great Britain for ten years; the object of which was to prevent collision and preserve peace, till their respective claims could be adjusted by negotiation. The next was made in 1824, when we offered to limit our claim to the territory by the 49th degree of latitude; which would have left to Great Britain all north of that latitude to the southern boundary of Russia. Her negotiator objected, and proposed the Columbia River as the boundary between the possessions of the two countries. It enters the ocean about the 46th degree of latitude. It follows, that the portion of the territory really in dispute between the two countries is about three degrees of latitude—that is, about one-fourth of the whole. The attempt to adjust boundaries again failed, and nothing was effected. I learn from our negotiator, (a distinguished citizen of Pennsylvania, now in the city,) that the negotiation was conducted with much earnestness, and not a little feeling, on the part of the British negotiators.

In 1827, just before the termination of the ten years, another attempt was made at an adjustment. The negotiation was conducted on our part by Mr. Gallatin. The whole subject was discussed fully, and with great ability and clearness on both sides; but, like the two preceding, failed to adjust the conflicting claims. The same offers were made respectively by the parties that were, in 1824, and again rejected. All that could be done was to renew the convention of 1818; but with the provision, that each party might, at its pleasure, terminate the agreement, by giving a year's notice. The object of the renewal was, as in 1818, to preserve peace for the time, by preventing either party from asserting its exclusive claim to the territory; and that of the insertion of the provision,

to give either party the right of doing so whenever it might think proper, by giving the stipulated notice.

Nor ought it to be forgotten, that, during the long interval from 1818 to this time, continued efforts have been made, in this and the other House, to induce Congress to assert, by some act, our exclusive right to the territory; and that they have all heretofore failed. It now remains to be seen whether this bill, which covers the whole territory, as well north as south of the 49th, and provides for granting land, and commencing systematically the work of colonization and settlement, shall share the fate of its predecessors.

To determine whether it ought or ought not, involves the decision of two preliminary questions. The first is, whether the time has now arrived when it would be expedient on our part to attempt to assert and maintain our exclusive claim to the territory, against the adverse claim of Great Britain; and the other, if it has, whether the mode proposed in this bill is the proper one.

In discussing them, I do not intend to involve the question of our right to the territory, nor its value, nor whether Great Britain is actuated by that keen, jealous, and hostile spirit towards us, which has been attributed to her in this discussion. I shall, on the contrary, assume our title to be as valid as the warmest advocate of this bill asserts it to be; the territory to be, as to soil, climate, production, and commercial advantages, all that the ardent imagination of the author of the measure paints it to be; and Great Britain to be as formidable and jealous as she has been represented.

I make no issue on either of these points. I controvert none of them. According to my view of the subject, it is not necessary. On the contrary, the clearer the title, the more valuable the territory; and the more powerful and hostile the British Government, the stronger will be the ground on which I rest my opposition to the bill.

With these preliminary remarks, I repeat the question, Has the time arrived, when it would be wise and prudent for us to attempt to assert and maintain our exclusive right to the territory, against the adverse and conflicting claim of Great Britain? I answer, No, it has not; and that for the decisive reason, because the attempt, if made, must prove unsuccessful against the resistance of Great Britain. We could neither take nor hold it against her; and that, for a reason not less decisive—that she could in a much shorter time, and at far less expense, concentrate a far greater force than we could in the territory.

We seem to forget, in the discussion of this subject, the great events which have occurred in the eastern portion of Asia, during the last year, and which have so greatly extended the power of Great Britain in that quarter of the globe. She has there, in that period, terminated successfully two wars; by one of which she has

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given increased quiet and stability to her possessions in India; and by the other, has firmly planted her power on the eastern coast of China, where she will undoubtedly keep up, at least for a time, a strong military and naval force, for the purposes of intimidation and strengthening her newly acquired possession. The point she occupies there on the western shore of the Pacific, is almost directly opposite to the Oregon Territory, at the distance of about five thousand five hundred miles from the mouth of Columbia River, with a tranquil ocean between, which may be passed over in six weeks. In that short time, she might place, at a moderate expense, a strong naval and military force at the mouth of that river, where a formidable body of men, as hardy and energetic as any on this continent, in the service of the Hudson Bay Company, and numerous tribes of Indians under its control, could be prepared to sustain and co-operate with it. Such is the facility with which she could concentrate a force there to maintain her claim to the territory against ours, should they be brought into collision by this bill.

I now turn to examine our means of concentrating an opposing force by land and water, should it become necessary to maintain our claim. We have no military or naval position in the Pacific Ocean. Our fleet would have to sail from our own shores, and would have to cross the line and double Cape Horn in 56 degrees of south latitude; and, turning north, recross the line, and ascend to latitude 46 north, in order to reach the mouth of the Columbia River—a distance from New York (over the straightest and shortest line) of more than 18,000 miles, and which would require a run of more than 18,000 of actual sailing on the usual route. Instead of six weeks, the voyage would require six months. I speak on the authority of one of the most experienced officers attached to the Navy Department.

These facts are decisive. We could do nothing by water. As far as that element is concerned, we could not oppose to her a gun or a soldier in the territory.

But, as great as are the impediments by water, they are, at present, not much less so by land. If we assume some central point in the State of Missouri as the place of rendezvous, from which our military force would commence its march for the territory, the distance to the mouth of the Columbia River will be found to be about two thousand miles; of which much more than a thousand miles would be over an unsettled country, consisting of naked plains or mountainous regions, without provisions, except such game as the rifle might supply. On a greater portion of this long march, the force would be liable to be attacked and harassed by numerous and warlike tribes of Indians, whose hostilities might be readily turned against us by the British traders. To march such a distance without opposition would take upwards of 120 days, as-

suming the march to be at the usual rate for military forces. Should it be impeded by the hostilities of Indians the time would be greatly prolonged.

I now ask, how could any considerable force sustain itself in so long a march, through a region so destitute of supplies? A small detachment might live on game, but that resource would be altogether inadequate to the support of an army. But admitting an army could find sufficient supplies to sustain its march to the territory, how could it sustain itself in an uncultivated territory, too remote to draw supplies from our settlements in its rear, and with the ocean in front, closed against us by a hostile fleet? And how could supplies be found to return, if a retreat should become necessary? In whatever view the subject may be regarded, I hazard nothing in asserting, that such is the difficulty at present on our part, of concentrating and maintaining a force in the territory, that a few thousand regulars, advantageously fortified on the Columbia River, with a small naval force to support them, could, with the aid of the employés of the Hudson Bay Company, and the co-operation of the Indians under its influence, bid defiance to any effort we could make to dislodge them. If all other difficulties could be surmounted, that of transporting a sufficient battering train, with all of its appurtenances, to so great a distance, and over so many obstacles, would be insuperable.

Having now made good my first position—that the attempt, at present, to assert and maintain our exclusive claim to the territory against the adverse claim of Great Britain, must prove unsuccessful, if she resisted, it now remains to inquire whether she would resist. And here let me say, whatever might be the doubts of others, surely they who have, in this discussion, insisted so strongly on her power, her jealousy, and her determination to hold the territory, cannot doubt that she would resist. If, indeed, provoking language can excite her to resistance, or if half which has been said of her hostile disposition be true, she not only would resist, but would gladly seize so favorable an occasion to do so, while we are comparatively so weak, and she so strong in that quarter. However unfavorable the time might be for us, for her it would be the most propitious. Her vast resources and military power in the East are liberated, and at her disposal, to be directed to assert and maintain her exclusive claim to the territory against ours, if she should determine to follow our example, in case this bill should pass. Even I, who believe that the present ministry is disposed to peace; that the recent mission to this country originated in the spirit of peace; and that Sir Robert Peel has exhibited great wisdom and moderation—moderation in the midst of splendid success, and therefore more to be trusted—do not doubt she would resist, if we should adopt this measure. We must not

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forget, as clear as we believe our title to be, that the right to the territory is in dispute between the two countries; and that, as certain as we regard our right to be, she regards hers as not less so. It is a case of adverse conflicting claims; and we may be assured, if we undertake to assert our exclusive right, she will oppose us by asserting hers; and if the appeal should be to force, to decide between us at present, the result would be inevitable—the territory would be lost to us. Indeed, this is so incontestable, that no one has ventured to deny it; and there is no hazard in asserting that no one will, who understands the subject, and does not choose to have the soundness of his judgment questioned.

But it may be asked, What then? Shall we abandon our claim to the territory? I answer, No. I am utterly opposed to that; but as bad as that would be, it would not be as much so as to adopt a rash and precipitate measure, which, after great sacrifices, would finally end in its loss. But I am opposed to both. My object is to preserve, and not to lose, the territory. I do not agree with my eloquent and able colleague that it is worthless. He has underrated it, both as to soil and climate. It contains a vast deal of land, it is true, that is barren and worthless; but not a little that is highly productive. To that may be added its commercial advantages, which will, in time, prove to be great. We must not overlook the important events to which I have alluded as having recently occurred in the eastern portion of Asia. As great as they are, they are but the beginning of a series of a similar character, which must follow at no distant day. What has taken place in China, will, in a few years, be followed in Japan, and all the eastern portions of that continent. Their ports, like the Chinese, will be opened; and the whole of that large portion of Asia, containing nearly half of the population and wealth of the globe, will be thrown open to the commerce of the world, and be placed within the pales of European and American intercourse and civilization. A vast market will be created, and a mighty impulse will be given to commerce. No small portion of the share that would fall to us with this populous and industrious portion of the globe, is destined to pass through the ports of the Oregon Territory to the valley of the Mississippi, instead of taking the circuitous route and long voyage round Cape Horn; or the still longer, round the Cape of Good Hope. It is mainly because I place this high estimate on its prospective value, that I am so solicitous to preserve it, and so adverse to this bill, or any other precipitate measure which might terminate in its loss. If I thought less of its value, or if I regarded our title less clear, my opposition would be less decided.

Having now, I trust, satisfactorily shown, that, if we should now attempt to assert and maintain our exclusive right to the territory, against

the adverse claim of Great Britain, she would resist, and that if she resisted, our attempt would be unsuccessful, and the territory be lost,—the question presents itself, How shall we preserve it?

There is only one means by which it can be; but that, fortunately, is the most powerful of all—*time*. *Time* is acting for us; and, if we shall have the wisdom to trust to its operation, it will assert and maintain our right with resistless force, without costing a cent of money, or a drop of blood. There is often, in the affairs of government, more efficiency and wisdom in non-action, than in action. All we want to effect our object in this case, is “a wise and masterly inactivity.” Our population is rolling towards the shores of the Pacific, with an impetus greater than what we realize. It is one of those forward movements which leaves anticipation behind. In the period of thirty-two years which have elapsed since I took my seat in the other House, the Indian frontier has receded a thousand miles to the West. At that time, our population was much less than half of what it is now. It was then increasing at the rate of about a quarter of a million annually; it is now not less than six hundred thousand; and still increasing at the rate of something more than three per cent. compound annually. At that rate, it will soon reach the yearly increase of a million. If to this be added, that the region west of Arkansas and the State of Missouri, and south of the Missouri River, is occupied by half-civilized tribes, who have their lands secured to them by treaty, and which will prevent the spread of population in that direction, and that this great and increasing tide will be forced to take the comparatively narrow channel to the north of that river and south of our northern boundary, some conception may be formed of the strength with which the current will run in that direction, and how soon it will reach the eastern gorges of the Rocky Mountains. I say some conception; for I feel assured that the reality will outrun the anticipation. In illustration, I will repeat what I stated when I first addressed the Senate on this subject. As wise and experienced as was President Monroe—as much as he had witnessed of the growth of our country in his time, so inadequate was his conception of its rapidity, that near the close of his administration, in the year 1824, he proposed to colonize the Indians of New York, and those north of the Ohio River and east of the Mississippi, in what is now called the Wisconsin Territory, under the impression that it was a portion of our territory so remote, that they would not be disturbed by our increasing population for a long time to come. It is now but 18 years since; and already, in that short period, it is a great and flourishing territory, ready to knock at our door for admission as one of the sovereign members of the Union. But what is still more striking—what is really wonderful, and almost

miraculous, is, that another territory (Iowa) still further west, (beyond the Mississippi,) has sprung up, as if by magic, and has already outstripped Wisconsin, and may knock for entrance before she is prepared to do so! Such is the wonderful growth of a population, which has attained the number ours has, and is still yearly increasing at the compound rate it is; and such the impetus with which it is forcing its way, resistlessly, westward. It will soon—far sooner than anticipated—reach the Rocky Mountains, and be ready to pour into the Oregon Territory, when it will come into our possession without resistance or struggle; or, if there should be resistance, it would be feeble and ineffectual. *We would then* be as much stronger there, comparatively, than Great Britain, as *she is now* stronger than we are; and it would then be *as idle in her* to attempt to assert and maintain her exclusive claim to the territory, *against us*, as it would ~~be~~ *be in us* to attempt it *against her*. Let us be wise, and abide our time, and it will accomplish all that we desire, with far more certainty, and with infinitely less sacrifice, than we can without it.

But, if the time had already arrived for the successful assertion of our right against any resistance which might be made, it would not, in my opinion, be expedient, in the present condition of the Government. It is weak—never more so; weak politically, and from the state of the finances. The former was so ably and eloquently described by my colleague, that I have nothing to add but a single remark on the extraordinary state of parties at present. There are now three parties in the Union: of which one is in possession of the Executive Department, another of the Legislative, and the other, judging by the recent elections, of the country; which has so locked and impeded the operations of the Government, that it is scarcely able to take measures necessary to its preservation.

In turning from this imbecile political condition of the Government, and casting my eyes on the state of its finances, I behold nothing but disorder and embarrassment; credit prostrated; a new debt contracted, already of considerable amount, and daily increasing; expenditures exceeding income; and the prospect, instead of brightening, growing still more gloomy. Already the debt falls not much short of thirty millions of dollars; to which will be added, from present appearances, by the end of the year, (if the appropriations are not greatly curtailed, and the revenue improved,) not less, probably, than ten millions, when the interest would be upwards of two millions of dollars annually—a sum more than equal to the net revenue from the public lands. The only remaining revenue is derived from the foreign commerce of the country; and on that, such heavy duties are imposed, that it is sinking under the burden. The imports of the last quarter, it is estimated,

will be less than nine millions of dollars—a falling off of about two-thirds, compared with what it ought to be, according to the estimate made at the last session by those who imposed the burden. But as great as it is, the falling off will, I understand, be still greater, from present indications, during the present quarter; and yet, in the face of all this, we are appropriating money as profusely, and projecting schemes of expenditures as thoughtlessly, as if the treasury were full to overflowing. So great is the indifference, that even the prostrated condition of the treasury attracts no attention. It is scarcely mentioned or alluded to. No one seems to care any thing about it. Not an inquiry is made, how the means of supplying the acknowledged deficit to meet the current demands on the treasury, or to cover the extraordinary expenditures which will be incurred by this measure, should it be adopted, is to be raised. I would ask its advocates, Do you propose to borrow the funds necessary for its execution? Our credit is already greatly impaired and our debt rapidly increasing; and are you willing still further to impair the one, and add to the increase of the other? Do you propose to raise them by increasing the duties? Can you hope to derive additional revenue from such increase, when the duties are already so high as not only to paralyze the commerce, agriculture, and industry of the country, but to diminish, to an alarming extent, the revenue from the imports? Are you prepared to lay a duty on tea and coffee, and other free articles? If so, speak out, and tell your constituents plainly that such is your intention; that money must be had; and that no other source of revenue is left, which can be relied on, but a tax on them. It must come to that; and before we incur the expense, it is but fair that our constituents should know the consequences.

But we are told the expense will be small—not exceeding one or two hundred thousand dollars. Let us not be deceived. What this bill appropriates is but the entering wedge. Let it pass, and no one can tell what it will cost. It will depend on circumstances. Under the most favorable, on the supposition that there will be no resistance on the part of Great Britain, it would amount to millions; but if she should resist, and we should make it a question of force, I hazard nothing in saying it would subject the country to heavier expenditures, and expose it to greater danger, than any measure which has ever received the sanction of Congress.

Many and great are the acts of folly which we have committed in the management of our finances in the last fourteen or fifteen years. We doubled our revenue when our expenditures were on the eve of being reduced one-half by the discharge of the public debt. We reversed that act of folly, and doubled our expenditures, when the revenue was in the course of reduction under the compromise act.

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When the joint effects of the operation of the two had exhausted the treasury, and left the Government without adequate means to meet current demands, by an aptitude in folly unexampled, we selected that as the fit moment to divest the Government of the revenue from the public domain, and to place the entire burden of supporting it on the commerce of the country. And then, as if to consummate the whole, we passed an act at the close of the last session, which bids fair to cripple effectually this, our only remaining source of revenue. And now what are we doing? Profiting by the disastrous consequences of past mismanagement? Quite the reverse; committing, if possible, greater and more dangerous acts of folly than ever. When the Government and the country are lying prostrate by this long series of errors and mismanagement; when the public credit is deeply impaired; when the people and the States are overwhelmed by debt, and need all their resources to extricate themselves from their embarrassments,—that is the moment we select to bring forward a measure, which, on the most favorable supposition, if adopted, cannot fail to subject the Government to very heavy expenditures, even should events take the most favorable turn; and may—no, that is not strong enough—would probably subject it to greater than it ever has heretofore been. Where would the Government find resources to meet them? Not in its credit, for that would be extinct. Not in the impost, for that is already overburdened. Not in internal taxes; the indebted condition of the States forbids that. More than half of the States of the Union are in debt; many deeply—and several even beyond their means of payment. They require every cent of the surplus means of their citizens, which can be reached by taxes, to meet their own debts. Under such a state of things, this Government could not impose internal taxes to any considerable amount, without bankrupting the indebted States or crushing their citizens. What would follow, should this Government be compelled, in consequence of this measure, to resort to such taxes, I shall not undertake to trace. Suffice it to say, that all preceding disasters, as great as they are, which followed the preceding acts of folly, would be as nothing compared to the overwhelming calamities which would follow this. Our system might sink under the shock.

If, Senators, you would hearken to the voice of one who has some experience, and no other desire but to see the country free and prosperous, I would say, Direct your eyes to the finances. There, at present, the danger lies. Restore, without delay, the equilibrium between revenue and expenditures, which has done so much to destroy our credit, and derange the whole fabric of the Government. If that should not be done, the Government and country will be involved, ere long, in over-

whelming difficulties. Cherish the revenue from the lands and the imports. They are our legitimate sources of revenue. When the period arrives—come when it may—that this Government will be compelled to resort to internal taxes for its support in time of peace, it will mark one of the most difficult and dangerous stages through which it is destined to pass. If it should be a period like the present—when the States are deeply in debt, and need all their internal resources to meet their own engagements—it may prove fatal; and yet it would seem as if systematic efforts are, and have been, making for some time, to bring it about at this critical and dangerous period. To this, all our financial measures tend,—the giving away the public lands; the crushing of the customs by high protective, and, in many instances, prohibitory duties; the adoption of hazardous and expensive measures of policy like the present; and the creation of a public debt, without an effort to reduce the expenditures. How it is all to end, time only can disclose.

But, if our finances were in ever so flourishing a state; if the political condition of the country were as strong as it could be made by an administration standing at the head of a powerful dominant party; and if our population had reached the point where we could successfully assert and maintain our claim against the adverse claim of Great Britain, there would still remain a decisive objection to this bill. The mode in which it proposes to do it is indefensible. If we are displeased with the existing arrangement, which leaves the territory free and open to the citizens and subjects of the two countries; if we are of the opinion it operates practically to our disadvantage, or that the time has arrived when we ought to assert and carry into effect our claim of exclusive sovereignty over the territory, the treaty provides expressly for the case. It authorizes either party, by giving a year's notice, to terminate its existence whenever it pleases, and without giving reasons. Why has not this bill conformed to this express and plain provision? Why should it undertake to assert our exclusive ownership to the whole territory, in direct violation of the treaty? Why should it, with what we all believe to be a good title on our part, involve the country in a controversy about the violation of the treaty, in which a large portion (if not a majority) of the body believe that we would be in the wrong, when the treaty itself might so easily, and in so short a time, be terminated by our own act, and the charge of its violation be avoided? Can any satisfactory reason be given to these questions? I ask the author of the measure, and its warm advocates, for an answer. None has been given yet; and none, I venture to assert, will be attempted. I can imagine but one answer that can be given—that there are those who will vote for the bill, that would not vote to give notice, under the delusive

hope that we may assert our exclusive ownership, and take possession, without violating the treaty, or endangering the peace of the country. Their aim is, to have all the benefit of the treaty, without being subject to its restrictions; an aim in direct conflict with the only object of the treaty—to prevent conflict between the two countries, by keeping the question of ownership or sovereignty in abeyance till the question of boundary can be settled. That such is the object, appears to be admitted by all, except the Senator from New Hampshire, (Mr. WOODBURY,) whose argument, I must say, with all deference for him, was, on that point, very unsatisfactory. The other advocates of the bill, accordingly, admit that a grant of lands to emigrants settling in the territory, to take effect *immediately*, would be a violation of the treaty; but contend that a promise to grant hereafter would not be. The distinction is, no doubt, satisfactory to those who make it; but how can they rationally expect it will be satisfactory to the British Government, when so large a portion of the Senate believe that there is no distinction between a *grant* and a *promise to grant lands*, as it relates to the treaty, and hold one to be as much a violation of it as the other? We may be assured that the British Government will look to the intention of the bill; and, in doing so, will see that its object is to assert our exclusive claim of sovereignty over the entire territory against their adverse claim, and will shape their course accordingly. Our nice distinction between actual grants and the promise to grant will not be noticed. They will see it in the subversion of the object for which the treaty was formed, and take their measures to counteract it. The result will be, that, instead of gaining the advantage aimed at, we shall not only lose the advantage of the treaty, but be involved in the serious charge of having violated its provisions.

I am not, however, of opinion that Great Britain would declare war against us. If I mistake not, she is under the direction, at this time, of those who are too sagacious and prudent to take that course. She would probably consider the treaty at an end, and take possession adverse to us, if not of the whole territory, at least to the Columbia River. She would, at the same time, take care to command that river by a strong fortification, manned by a respectable garrison, and leave it to us to decide whether we shall acquiesce, or negotiate, or attempt to dislodge her. To acquiesce under such circumstances, would be a virtual surrender of the territory; to negotiate with adverse and forcible possession against us, would be almost as hopeless; and to dislodge her at present, would, as has been shown, be impracticable.

Such, in my opinion, would be the probable result, should this bill be passed. It would place us, in every respect, in a situation far less eligible than at present. The occupation

of British subjects in the territory, as things now stand, is by permission, under positive treaty stipulation, and cannot ripen into a title, as it was supposed it would by the Senator from Illinois. (Mr. McROBERTS.)

But if their occupancy was adverse, (as it would be, should this measure be adopted,) and Great Britain should resist, then his argument would be sound, and have great force. In that case, the necessity of taking some decisive step, on our part, to secure our rights, would be imperious. Delay would then, indeed, be dangerous. But as it is, no length of time can confer a title against us; and it is that, considering what advantage Great Britain has over us at present, either to take or hold possession, which ought to give to the treaty great value in our estimation. It is a wise maxim to let well-enough alone. We can do little at present to better our condition. Even the occupation and improvement by British subjects, against which so much has been said, will, in the end, if we act wisely, be no disadvantage. Neither can give any claim against us when the time comes to assert our rights, if we abide faithfully by the treaty. They are but preparing the country for our reception; and should their improvements and cultivation be extended, it would only enable us to take possession with more ease if it should ever become necessary to assert our claim by force; which I do not think probable, if we shall have the wisdom to avoid hasty and precipitate action, and leave the question to the certain operation of time.

In conclusion, I might appeal to the authority of the preceding administrations from 1818 to the present time, in support of the views I have taken. On what other supposition can it be explained, that the administration of Mr. Monroe should assent to the treaty of that year, which left the territory open and free to the citizens and subjects of the two countries for the period of ten years? Or that of Mr. Adams should revive it, with the provision, that either might terminate it by giving one year's notice? Or, still more emphatically, how can it be explained, that with this right of terminating the treaty, the administration of General Jackson, and that of his successor, should, for the period of twelve years, acquiesce in it, but on the conviction it was the best arrangement which could be made, and that any change or movement on our part would but render our situation worse instead of better, in relation to the territory? It cannot be said that the present is a more favorable period to assert our exclusive right, than during either of the preceding administrations. The reverse is the fact. It is, in every view, far less favorable than either, and especially than that of General Jackson, when the treasury was overflowing, and the head of the administration possessed greater influence and power than any other Chief Magistrate that ever presided over the country. *That, if ever,*

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was the time to assert our exclusive ownership; particularly as those who are so earnestly pressing it on the Government were then in power, and would have been responsible for its execution. How is it to be explained, that they were then so passive, and are now so urgent for the passage of this bill?

Entertaining these views, I hope that the motion of the Senator from Virginia (Mr. ARCHER) will prevail, and the bill be referred to the Committee on Foreign Relations. The subject is one of great importance and delicacy, and ought to be carefully examined by the appropriate organs of the body. Should it be referred, I trust the committee will report amendments to strike out all the provisions of the bill which, by any reasonable interpretation, might be regarded to be in conflict with the stipulations of the treaty between the two countries, or which might incur any considerable expense in the present exhausted condition of the treasury. As at present advised, I am not indisposed to the provision, if properly guarded, which proposes to extend our jurisdiction over our citizens in the territory. It ought not, however, to be carried farther than the provisions of the act of Parliament of 1821. I am opposed to holding out temptation to our citizens to emigrate to a region where we cannot, at present, protect them; but if there be any who may choose to emigrate, I would be far from opposing them; and am unwilling that they should lose, by emigration, personally the benefit of our jurisdiction and laws.

I have now said what I intended in reference to this bill; and shall conclude by noticing some remarks which fell from the Senator from Missouri (Mr. LINN) who introduced it. When he first addressed the Senate, in reply to my former remarks, he spoke a good deal about opposition and injustice to the West, and referred to some of the acts of the Government at an early date, which he supposed partook of that character. I do not suppose that he intended it; but his remarks were calculated to make the impression (taken in connection with the time and subject) that he regarded the opposition to the passage of this bill as originating in unfriendly feelings to the West. But if he so regards it, and if he intended to apply his remarks to me, I would appeal to my acts to repel the unjust imputation.

[Here Mr. LINN disclaimed any intention of attributing to Mr. CALHOUN hostile or unkind feelings to the West.]

Mr. CALHOUN. I am happy to hear the disclaimer of the Senator. I felt assured he could not have intended to do me so much injustice as to attribute to me the slightest hostility to the West. No one knows better than he does that my opposition to the bill originates in public considerations, free from all local feeling, and that my general views of policy have ever been friendly, and even liberal, towards the West; but as there are others not so familiar with my course in reference to that great

and growing section, I deem it proper to avail myself of the opportunity briefly to allude to it, in order to repel any improper imputation which may be attempted to be attributed to me, from any quarter, on account of my course on the present occasion.

I go back to the time when I was at the head of the War Department. At that early period I turned my attention particularly to the interest of the West. I saw that it required increased security to its long line of frontier, and greater facility for carrying on intercourse with the Indian tribes in that quarter, and to enable it to develop its resources—especially that of its fur trade. To give the required security, I ordered a much larger portion of the army to that frontier; and to afford facility and protection for carrying on the fur trade, the military posts were moved much higher up the Mississippi and Missouri Rivers. Under the increased security and facility which these measures afforded, the fur trade received a great impulse. It extended across the continent, in a short time, to the Pacific, and north and south to the British and the Mexican frontiers; yielding in a few years, as stated by the Senator from Missouri, (Mr. LINN,) half a million of dollars annually. But I stopped not there. I saw that individual enterprise on our part, however great, could not successfully compete with the powerful incorporated Canadian and Hudson Bay Companies, and that additional measures were necessary to secure permanently our fur trade. For that purpose, I proposed to establish a post still higher up the Missouri, at the mouth of the Yellow Stone River, and to give such unity and efficiency to our intercourse and trade with the Indian tribes between our Western frontier and the Pacific Ocean, as would enable our citizens engaged in the fur trade to compete successfully with the British traders. Had the measures proposed been adopted, we would not now have to listen to the complaint, so frequently uttered in this discussion, of the loss of that trade.

But that is not all. I might appeal to a measure more recent, and still more strongly illustrative of the liberal feelings which have ever influenced me, whenever the interest of the West was concerned. I refer to the bill relating to the portion of the public domain lying within the new States, which I introduced, some time since. It is true, indeed, that I looked to the interest of the whole Union in introducing that measure; but it is not the less so that it would, if it should become a law, more especially benefit the West. In doing that, I exposed myself, in my own section, to the imputation of seeking the friendship of the West—as I do, on this occasion, to that of hostility towards that great and growing section. As the hazard of the former could not deter me from doing my duty then, so that of the latter cannot from doing my duty now. The same sense of duty which on that occasion impelled me to support a measure in which the West was peculiarly interested, at the hazard of in-



curring the displeasure of my own section, because I believed it calculated to promote the interest of the whole,—impels me on this occasion to oppose this measure, at the hazard of displeasing the West, because I believe, in so doing, I not only promote the interest of the Union generally, but that of the West especially.

Mr. HUNTINGTON said he had examined the bill with a sincere desire to give it his support; but he felt constrained to say, after a careful examination of the treaty of 1818, that he feared it could not, consistently with good faith, become the law of the land. He would go as far as he who went farthest in maintaining the rights of this country, and asserting our claim to the Oregon Territory, and in passing all necessary laws within the limits of the just powers of this Government; but, while he was for sustaining those rights, he was also for preserving all the covenants entered into by this Government with a foreign power. The only questions to which he desired to direct their attention were, first, as to whether this bill did or did not interfere with the stipulations of the convention of 1818. When this question was satisfactorily settled, the only remaining question would be, Was it expedient to pass the bill? In order to ascertain whether the bill would conflict with the stipulations of that convention, it would be necessary to examine not only the phraseology, but the spirit and object of the convention. By the terms of the convention, it was agreed that the country, together with its harbors, bays, and creeks, should be free and open, for the space of ten years, to the vessels, subjects, and citizens of the two powers. Whether the terms "free and open" were—as the Senator from New Hampshire supposed—to be confined to the sense of a mere trading establishment, leaving both parties free to assert their right to exercise jurisdiction over the territory; whether it were a mere commercial treaty or (as was supposed by other gentlemen) it were capable of a more extended construction, giving the rights of national occupancy to the subjects of each nation;—in either point of view, the same result would follow—viz: that neither Government had the right to interfere with the rights of the citizens of the other. He was now speaking of the principle involved in the words of the convention; and that was clearly that, if this Government exercise the right of granting titles to any portion of the disputed territory, it amounted to an exercise of sovereignty and jurisdiction, which might conflict with the freedom and openness provided for by the treaty. It was the highest assertion of right that could possibly be made, and would most undoubtedly operate to the disadvantage of the other contracting party. What was the principal object of the treaty? It was to prevent the occurrence of quarrels and dissensions between the parties. With the knowledge of this fact, could any Senator doubt that the design was, that no

grants of land should be made by either party? Would it not serve to create those very disputes and difficulties which the convention was intended to avert?

There was not much analogy between this case and the case stated by the Senator from New Hampshire—of a treaty of commerce between this country and Russia, by which the port of Archangel should be free for American vessels. This bill provided expressly that any portion of the territory might be occupied by settlers emigrating from this country, and that a good title should be given to them; which was the highest act of sovereignty.

It had been stated that this bill proposed to do nothing more than Great Britain had already done; but if he had rightly understood the purport of the communication which was read to the Senate yesterday, they were informed by the Secretary of State that the British Government had expressly disavowed the making of any grants. He was not going to deny that Great Britain—who grasped at every advantage—would be very willing that this territory should be settled by her own subjects; but if they were to believe the assertion of her accredited agent in this case, she had done nothing which could interfere with the stipulations of the convention; and yet it was proposed by this bill to exercise the highest act of sovereignty that could be exercised by any Government. Was he not right, then, in saying that the bill would conflict with the convention? Gentlemen would ask, Did they mean to suffer themselves to be entirely dispossessed by the Hudson Bay Company? No such thing. He would go so far as to say it would be wise to put an end to their encroachments; but he would do it in a way which the convention would allow, by giving one year's notice of our intention. He thought it far better to take this course, than to render themselves obnoxious to the imputation of having acted in contravention of our solemn engagements.

Mr. McDUFFIE next obtained the floor, and remarked that he had been reluctant to enter into this discussion; and certainly should not have risen to take part in it, had it not appeared to him that there were other grounds than those yet advanced, which would influence him in opposing the passage of this bill. The objections he had to it seemed to him to be of greater magnitude than could at that late hour be discussed. He would therefore ask the indulgence of the Senate in moving an adjournment.

At Mr. KING's suggestion, the further consideration of the bill was postponed till tomorrow morning.

The motion to adjourn having been withdrawn,

On motion of Mr. KING, the Senate went into executive session; and after some time spent therein, adjourned.

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WEDNESDAY, January 25.

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The bill for the occupation and settlement of the Oregon Territory then came up on its passage, as the unfinished business of yesterday.

Mr. McDUFFIE rose and addressed the Senate. A wise and prudent man, (said Mr. McD.) in any of the various departments of human affairs, would be very reluctant to engage in any enterprise, however thoroughly satisfied of his right to do so, until he should have well considered, first, the appropriate time for its commencement; secondly, the means by which it was to be accomplished, and its probable cost; and finally, the benefits which were ultimately to result from its accomplishment. And he must be permitted to say, if the worthy Senator from Missouri, who had, with so much zeal and ability, presented this bill to the consideration of the Senate, had violated any of the maxims of sound policy, (as he humbly conceived he had,) it had arisen from the circumstance of totally overlooking the considerations to which he had just alluded. All those Senators who had engaged in this discussion, seemed to have limited their investigations to what he was compelled to regard as the most unimportant of all the questions which this measure involves. They had confined themselves to the mere abstract question of the right of title. They had argued the question as if the Senate of the United States was the tribunal which was to adjust and determine the question of the validity of the English or the American title; and as if this was the only question to be determined. He believed no Senator, who had taken part in this discussion, had expressed the slightest doubt as to the validity of the title of the United States to the Territory of Oregon. He had investigated the subject as fully and as thoroughly as the documentary evidence to which he had been able to obtain access had enabled him to do; and, with these lights before him, he was free to declare that he regarded the title of the United States, at least as far north as the forty-ninth parallel of latitude, as one of the clearest titles that was ever the subject of national controversy. But, at the same time that he made this declaration, he would be very sorry to assume the responsibility of precipitating the nation into any measure, upon his own judgment, or the judgment of the Senate, upon questions which it did not belong to either to determine. Gentlemen seemed to have forgotten that there were two parties interested in this question; and that, however clear our title might appear to us, theirs might appear equally clear to the other party. Here was a case of joint occupancy, and an existing question as to title. The Senate had seemed, throughout the whole discussion, to assume that ours was the true title, and were proceeding upon that assumption; although the British, at the same time, claimed that theirs was the true title. By whom were these conflict-

ing claims to be settled? By one of the interested parties? Certainly not.

A few words on the subject of the convention of 1818, which had been indefinitely prolonged by that of 1827. He concurred perfectly with those Senators who had maintained that the provision of this act, which granted, or stipulated to grant, allodial titles, or titles in fee simple, to all those citizens of this country, who might emigrate to that territory, was a palpable violation of the convention. It was in vain to disguise the fact, whatever might be determined in regard to this matter. They were about to take possession of the territory, to establish a line of American forts, and, by all the means and appliances of war, to defend that possession. They were about to invite the citizens of this country to go there—not for the purpose of carrying on the fur trade; not to do that which was consistent with a joint occupancy by the two parties to the convention; but to establish a permanent settlement. The British Government and the British nation, however we might disguise the facts in our arguments here, could not be so blind as not to perceive the palpable objects of this measure. He begged to inquire of the worthy Senators who took so deep an interest in the fate of this bill, what was the existing emergency which called upon the United States to take this step? The question, for the last twenty-four years, had been allowed to slumber, while we were in the midst of the greatest national prosperity, with a treasury so abundantly supplied that the wit and ingenuity of man could not find out a legitimate mode of disencumbering it of its superabundant treasure. He called upon Senators to state what was the existing emergency, which demanded, now, that a measure of this kind should be adopted. Why was it that they were invoked at this moment—and, he must be permitted to say, this inauspicious moment—to enter into a measure of this kind? Why had it not been done twenty years ago, or at some subsequent period prior to the present? He was decidedly averse to embark in it now. What was the condition of our affairs in relation to England? Had they already forgotten that only the other day a momentous treaty had been concluded with England, concerning one of the most embarrassing difficulties that had arisen since the termination of the late war? He would ask, how, and at whose instance, was that adjustment made? It was made at the instance of that nation, concerning whose grasping ambition, so much had been said by gentlemen on this floor. Was it her ambition, her love of conquest, and desire of the acquisition of territory, that induced England to send to us the olive branch of peace, in the form of an extraordinary mission? Great Britain voluntarily moved in this matter, and tendered to us the olive branch of peace; and he thanked God that our Government accepted it in the spirit in which it was extended to us. He was not disposed to find fault with the re-

sult of those negotiations, even if they had conceded much more territory than was conceded, had it been done with the consent of the State immediately interested, and consistently with the honor of the country. He would rather that peace should be made on almost any terms, than to go to war. The matter had been adjusted; and he must be permitted to say, that for the adjustment of this question, if for nothing else, the people of the United States owed a debt of lasting gratitude to the Administration by whom this adjustment had been effected; and he would go further, and say, that every patriot in England, and every patriot in the United States, would shake hands, and declare that the Government of each was indebted to the negotiators. He thanked God that the treaty had been brought to a successful termination. Well, sir, (said Mr. McD.) while congratulating ourselves on the termination of these great difficulties, at such a moment as this, what are we about to do? While a part of our territorial boundary remained still to be adjusted—while the question was still a subject of pending negotiation between the two countries—the Senate of the United States, a branch of the Legislature, intimately connected with the treaty-making power, is about to adopt a military movement, in order to take military possession of the territory. Now, however we may view this act, whatever interpretation we may place upon it—I will ask gentlemen to assume to themselves for a moment the position of the British ministry, and imagine what would be the natural effect upon their minds of a measure of this kind. Sir, they sent us the olive branch of peace to adjust the most important difficulty. Instead of reciprocating the amicable spirit manifested by them, we are about to send forth the flaming sword of defiance;—yes, at the very moment when our minister is instructed to negotiate for a settlement of the question, we snatch from their hands the olive branch of peace, and place the sword of defiance in its stead. This may be strong language; but, strong as it is, it is not stronger than the natural interpretation which will be placed on our conduct, if this bill be passed, by Great Britain.

I have asked, what is the emergency which demands the passage of this bill? Is there any probability that we shall fail in the adjustment of the question by negotiation? If gentlemen believe we shall fail, and that we shall ultimately be under the necessity of resorting to force of arms to establish our title and maintain our occupation, this is an additional reason why we should adopt no measure which, in the estimation of the civilized world, and in our own, could possibly place us in the wrong. Let us fairly and honorably try to negotiate. Let us try to adjust this boundary, as we have done the other. And, as I think the title of the United States is infinitely more clear than that upon which the negotiation has just terminated, I think the probability of an amicable ad-

justment is so much the greater. But gentlemen say we must proceed in this way—we must take possession, because the British are doing the same. They are making lodgments, establishing settlements, looking forward to the exclusive possession at some future period. Now, I totally dissent from this opinion; and if there is any one conclusion to which the documents before the Senate must irresistibly bring the minds of Senators, it is that Great Britain has not the remotest idea—that she has not done a solitary act, nor uttered a solitary word, on the question, evincing the remotest desire to make permanent and exclusive settlements in that territory. All that she desired, all that they have ever claimed, is the right to prosecute the fur trade, and to make such temporary settlements as were necessary to accomplish that object. Have they done more, sir? It is true the worthy Senator from Kentucky (Mr. MOREHEAD) made a formidable array of charges against England, in reference to acts which she has already done. In the first place, that she has made a fort one hundred miles from the mouth of the Columbia River; and the gentleman, with that candor which forbids him to suppress any part of the truth, read a full account of that fort, concluding with a statement that it was a mere stockade-fort, in its very character intended for no other purpose than to repel the attacks of the Indians; and so it is with all the other forts which they have established. This, then, amounts to nothing; it furnishes no evidence of an intention of establishing permanent settlements, the idea of which seems to have taken hold of the minds of Senators. The Senator from Kentucky related another very important fact. He said England has violated the convention, which stipulated the joint occupancy in the prosecution of the fur trade; because, whenever our boats ascended the Columbia River to trade with the Indians, they were immediately driven off by the English, who had the audacity to come there and sell goods to the poor Indians cheaper than the Americans did; and this was a violation of the convention. Why, sir, this harmonizes very badly with the remark of the worthy Senator from New Hampshire, (Mr. WOODBURY,) who indicated, as one important object to be gained by the passage of this bill, the civilization of the Indians. But, if we cannot afford to sell them goods at a cheap rate, it surely does not show a very Christian spirit. But all this is mere words. I put it to the Senate whether any one, in the course of this discussion, has put his finger on a solitary act which indicated an intention, on the part of Great Britain, to establish for herself an exclusive occupation. I assert that, as far as I have examined, I have discovered no evidence of any such intention.

Now, Mr. President, having pressed these brief views, tending to show the inexpediency of adopting such a measure at this time, in reference to negotiations now pending between the two countries, let me ask the Senate, what will

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be the natural interpretation that England will put upon our act? If we had passed the measure without debate, it might not have been regarded in any degree offensive; but you may rest assured, when this act comes to be regarded by the British ministry, particularly if they have any desire to take possession of the territory, what will be the interpretation they will put upon it? They will interpret the act by the speeches delivered here. Will they not, sir? Consult your own bosoms. What is the impression produced upon yourselves, when an English paper—not even a ministerial paper—throws out denunciations against the United States?

What, then, will be their interpretation of this act, military in its character, heralded forth to the world with denunciations against England, on account of her grasping ambition—referring to her acts in the Eastern hemisphere, in Asia, and in China, as well as on this continent? Sir, however calmly we may hear these things, the British will not hear them with calmness. Now, sir, let me tell you how many gentlemen are mistaken as to the feelings existing in England in regard to this subject. I was there for about six months during the years 1838 and 1839; and if I were called upon on my oath to declare what appeared to be the most prevailing sentiment in England, I would say it was an absolute horror of the idea of a war with America. All ranks, high and low, every person I encountered, in the highways and elsewhere, universally concurred in the sentiment that the ancient feuds that had separated the two countries had passed away—that a new era had grown up—that they were bound together by the strong ties of consanguinity, both being of the Anglo-Saxon race, differing from all the rest of the world; and I heard the language used—language in which I concurred—that if the two Governments, on a question of mere boundary, which might be intrusted to arbitrators, should involve themselves in war, they would deserve the eternal execration of the world. This was the universal sentiment.

Sir, I am not afraid of being charged with dreading the tremendous power of England. Surely, the courage of the people of the United States, illustrated in so many glorious battles by land and by sea, is not reduced to so low an ebb, that they may not venture to be just and moderate for fear of encountering the hazard of being thought to be cowardly. No, sir; no such interpretation will be put upon our conduct. I confidently believe, therefore, that if we wait with patience, and fairly employ the means of peace which are in our hands, and leave the executive department of the Government to discharge its duty, I confidently believe, from the progress already made in the adjustment of our difficulties, that this comparatively unimportant one would be adjusted. So far, sir, as regards our foreign relations.

But there are some domestic views of the subject which gentlemen have overlooked.

What do we want with this territory? What are we to do with it? What is to be the consequence of our taking possession of it? What is the act we are called on now to do? Why, it is neither more nor less than an act of colonization, for the first time proposed since the foundation of this Government. If this were a question of gradual, and continuous, and progressive settlement—if the territory, to which our citizens are invited, were really to become a part of this Union, it would present a very different question. But, sir, does any man seriously suppose that any State which can be formed at the mouth of the Columbia River, or any of the inhabitable parts of that territory, would ever become one of the States of this Union? I have great faith—no one had much greater—in the power of the representative principle to extend the sphere of government; but I confess that, even in the most sanguine days of my youth, I never conceived the possibility of embracing within the same Government people living five thousand miles apart. But, sir, the worthy Senator from New Hampshire (Mr. WOODBURY) seems to have discovered a principle much more potent than the representative principle. He refers you to steam, as far more potent. I should doubt very much whether the elements, or powers, or organization of the principles of government, will ever be changed by steam. Steam! How are we to apply steam in this case? Has the Senator examined the character of the country? What is the character of the country? Why, as I understand it, that about seven hundred miles this side of the Rocky Mountains is uninhabitable, where rain scarcely ever falls—a barren sandy soil. On the other side—we have it from a very intelligent gentleman, sent to explore that country by the State Department, that there are three successive ridges of mountains extending towards the Pacific, and running nearly parallel; which mountains are totally impassable, except in certain parts, where there were gaps or depressions, to be reached only by going some hundreds of miles out of the direct course. Well, now, what are we to do in such a case as this? How are you going to apply steam? Have you made any thing like an estimate of the cost of a railroad running from here to the mouth of the Columbia? Why, the wealth of the Indies would be insufficient. You would have to tunnel through mountains five or six hundred miles in extent. It is true, they have constructed a tunnel beneath the Thames; but at a vast expenditure of capital. With a bankrupt treasury, and a depressed and suffering people, to talk about constructing a railroad to the western shore of this continent, manifests a wild spirit of adventure which I never expected to hear broached in the Senate of the United States. And is the Senate of the United States to be the last intrenchment where we are to find this wild spirit of adventure which has involved this country in ruin? I believe that the farmers, the honest

cultivators of the soil, look now only to God in his mercy, and their own labor, to relieve them from the wretchedness in which the wild and visionary schemes of adventure have involved them.

Now, it is one of the most uncalculating measures which was ever brought before the Senate. For whose benefit are we bound to pass it? Who are to go there, along the line of military posts, and take possession of the only part of the territory fit to occupy—that part lying upon the sea-coast, a strip less than one hundred miles in width; for, as I have already stated, the rest of the territory consists of mountains almost inaccessible, and low lands which are covered with stone and volcanic remains, where rain never falls, except during the spring; and even on the coast no rain falls from April to October, and for the remainder of the year there is nothing but rain. Why, sir, of what use will this be for agricultural purposes? I would not, for that purpose, give a pinch of snuff for the whole territory. I wish to God we did not own it. I wish it was an impassable barrier to secure us against the intrusion of others. This is the character of the country. Who are we to send there? Do you think your honest farmers in Pennsylvania, New York, or even Ohio or Missouri, will abandon their farms to go upon any such enterprise as this? God forbid! If any man who is to go to that country, under the temptations of this bill, was my child—if he was an honest and industrious man, I would say to him, for God's sake, do not go there. You will not better your condition. You will exchange the comforts of home, and the happiness of civilized life, for the pains and perils of a precarious existence. But if I had a son whose conduct was such as made him a fit subject for Botany Bay, I would say, in the name of God, go. This is my estimate of the importance of the settlement. Now, what are we to gain by making the settlement? In what shape are our expenditures there to be returned? When are we to get any revenue from the citizens of ours who go to that distant territory—8,300 miles from the seat of Government, as I have it from the Senator from Missouri? What return are they going to make us for protecting them with military posts, at an expense, at the outset, of \$200,000, and swelling hereafter God knows how much—probably equalling the annual expenses of the Florida war. What will they return to us for this enormous expense, after we have tempted them, by this bill, to leave their pursuits of honest industry, to go upon this wild and gambling adventure, in which their blood is to be staked?

Sir, does any man suppose that, in the next twenty years, we shall derive a cent of revenue? I put it to the Senate, is there a man here who supposes that the wealth or power of the United States will be increased to the amount of one solitary cent by all the colonists that may be prevailed upon to go there? No,

sir, not a cent. Well, now, make a moderate estimate; what do you think it will cost, on the scale on which you set out, during the next twenty years? Why, if you get off with ten millions of dollars, it will be about what any reasonable man would consider a proper estimate. The country is inhabited by fierce and warlike savages. It is a country abounding with recesses to which they can retreat, and in which they will be inaccessible; and if we ever get to war with them, (and we know by experience that the most certain way to get to war is to go among them,) we shall find another Florida; and every person knows how much the expenses of that unfortunate war had exceeded the anticipations of those who forboded the worst. Sir, the interests of the people of the United States, throwing out of view the ardent and unpatriotic desire of adventurers, and consulting the solid interests of the agricultural and manufacturing interests of the country, I venture to say that, for the next twenty years, there is not a congressional district in this Union, costing the Government nothing, but, on the contrary, contributing to its support, which will not be more valuable to the United States than the whole of this territory. It never can be of any value for agricultural purposes.

All the accounts I have read concur, without any dissenting voice, in stating that the fur trade is in rapid course of deterioration. The animals which yield furs are disappearing; and the time is not remote when even the British fur company will abandon the country, if you leave them alone. So you have a prospect, by the mere lapse of time—by the mere progress of events—by the extermination of animals—of having the territory dropped into our possession. But, if the British had no claim to this territory, and there were nothing which impelled us to go with our military establishments and agricultural settlements, I would not consent—if there was an embankment of even five feet to be removed, I would not consent to expend five dollars to remove that embankment to enable our population to go there. I do not wish to tempt the people to form settlements there. I wish this to be a great empire, grown up by the natural course of civilization, and the natural extension of population. I thank God for his mercy, in placing the Rocky Mountains there. I believe, if it had not been for those mountains, we would have been already in the Pacific. You cannot civilize men if they have an indefinite extent of territory over which to spread their numbers; for, so long as they spread their numbers, instead of becoming civilized, they become semi-savage. All agree that civilization can best be effected when the country is hedged in by narrow boundaries.

Why, Mr. President, if there is any one lesson inculcated by history, beyond the possibility of doubt, it is that all nations of the world which have within the last one or two centuries sent out distant colonies, have found them to be far

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more expensive than profitable. There is nothing which can justify such an enterprise, but the existence of a superabundant and starving population. In our case there is no such necessity. Are we pent up within narrow limits?—are we stifled for air?—are we starving for want of means of subsistence? Why, sir, we are very much distressed, to be sure; but it is from plethora, not from consumption. We are now in the condition in which a Senator from Kentucky, in discussing the tariff bill, told us we were, and that is—in a most deplorable condition. The barns were full—were breaking down with the weight of grain; the country was overburdened with a superabundance of all the means of human subsistence. This is the case now. In the history of the United States, a period was never known of such an abundance of every thing necessary to support human life—corn selling for from ten to twelve and a half cents a bushel; wheat at forty cents, and every other article of consumption in proportion—and with a country like this, and with a soil as productive as the valleys of Egypt, and so extensive that you cannot people it for a century to come,—with such a soil, and such means for rewarding the honest agricultural laborer, shall we, at an enormous expense, derived from taxes upon the labor of the industrious, indulge the whims and caprices of the adventurous portion of the population, who love to roam over the mountains? It is not proper to hold out such inducements to our citizens to engage in these adventurous pursuits. There are no advantages to be derived from them. The advantages of the fur trade have been highly extolled; but I have seen no results but the enormous wealth of John Jacob Astor, and one or two others, to justify the commendation. Are the honest mechanic and agriculturist, engaged in the honest pursuits of industry, to be taxed, that inducements may be held out to the adventurous to engage in this trade, which has enriched so few?

Have you read the account of Astor's adventures in the fur trade? You will there find that the most of his operators were foreigners and the half-breed Indians. There were no citizens of the United States employed by him; and by this bill you will induce none of your citizens to embark but those of an adventurous character—those who have nothing to lose. I cannot think any man who has a strong feeling of patriotism—who has a heart bound to his country as it ought to be, and endearing associations inseparably connected with home—would abandon his friends and family, and all endeared to him, to emigrate to that country. No, sir; captivating as it may be to one portion of the Union, this is a spirit we ought not to encourage: we ought, rather, to induce the honest and industrious classes to remain among us, and contribute to the support of their Government.

But, in the ardor with which gentlemen have been drawn into the discussion of this question,

they seem to have totally overlooked a very important matter—the ways and means. Do we so abound in financial resources, as to be able, at this particular moment, to appropriate \$200,000 to a scheme of this kind? Have gentlemen considered the question of ways and means? I have not heard a single individual, in the course of the debate, make the slightest reference to the pecuniary means of this country to justify such an appropriation. I must, however, except the Senator from New Hampshire. At the close of his remarks, he made a slight allusion to our finances, rather with a view of showing that, as bad as they were, we might make the appropriation necessary to carry the plan into operation. That gentleman was himself Secretary of the Treasury, at a period of great financial embarrassment; and the tribulation to which he was then exposed, no doubt, brought him to sympathize with the present Secretary of that Department, and to consider the importance of having ways and means; and the still greater importance of prosecuting this measure, whether you have the ways and means or not. Well, sir, two great political parties are now contending for power. They have both, in some degree, adopted the same watchword—economy and retrenchment. That was the sign under which the Whigs conquered in 1840; it is the sign under which the Republicans hope to conquer now. Hitherto, on this subject, we have had nothing but words. I have not seen the slightest effort to establish, in the administration of this Government, any system of economy. I have not witnessed any apparent misgiving in the minds of Senators who are favorable to the adoption of this measure, as to the deficient condition of the finances. I confidently believe that we will not have a sufficiency of means to carry on the Government, and to pay the ordinary demands which are contracted on its behalf. The expenditure which the Government is required to make will not leave, at the end of the year, any thing to be applied to the object contemplated in this bill.

I have seen a statement of the probable amount of the imports of the last quarter, purporting to come from a person who investigated the subject thoroughly, and who had the means to investigate it; and the result was, that the probable amount of the whole imports for that period would be little more than eight millions of dollars. What does this indicate? A state of things which, of all others, calls upon us to pause.

What is the condition of this Government? Who is it that rules? Who is responsible for the measures adopted here? Nobody, sir. We are in a state of interregnum. Nobody is responsible. For God's sake, let us postpone measures of this kind until there is somebody in the Government responsible. The Executive is exerting, no doubt, the best of his powers to do something; but he is not sustained by the other branches of the Legislature. Nei-

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ther of the great parties seems to have any sympathy for the Executive. They stand by, and fold their arms. If you should say to either of them, you have appropriated \$300,000 without having the means to meet that appropriation, they would say it does not concern us; it belongs to the other party to provide the ways and means. For God's sake, then, let us not adopt equivocal measures of this kind, when there is no party responsible for any thing. Wait a year or two. Within that period you will have a chance of having that territory gained by amicable negotiation. Within that period you will certainly have somebody at the head of this Government—whether Democratic or Whig—of sufficient power to assume the responsibility of the measures adopted for administering the Government. I beseech you now, by every consideration connected with the national welfare, to pause. The time will come when it will be proper to act. I think, of all times, this is the most inappropriate; and I say, emphatically, pause before you proceed further in this matter.

Mr. LINN remarked that it was his wish to close the debate on this subject; and, unless some other Senator desired to address the Senate then, he would move to pass over the bill, informally, till to-morrow. He made that motion, and it was agreed to.

The Senate then adjourned.

THURSDAY, January 26.

*The Oregon Territory.*

The unfinished debate from yesterday, on the question of passing the Oregon bill, was resumed.

Mr. LINN addressed the Senate.

With the exception of the two Senators from South Carolina, the Senators who had taken ground of opposition confined their objections to one provision of the bill—that providing a grant of lands to settlers.

One of the Senators from South Carolina (Mr. CALHOUN) objected not only to that provision, but to other provisions, and in general to the expediency and policy of any action upon the subject at present. The other Senator from South Carolina, (Mr. McDUFFIE,) who spoke yesterday, took wider ground, and objected to the bill in every particular. If his views were well-founded, we never should have any thing to do with the territory.

In answering the objections of the last Senator, (Mr. McDUFFIE,) he would meet all that had been made from every quarter.

It was, however, matter of gratification to him, that so many Senators had concurred in the propriety, policy, and expediency of the general objects of the bill, and that their objections were confined to a single provision.

If he understood the Senator from South Carolina (Mr. McDUFFIE) correctly, he conceived that Senator imputed to him a violation of the maxims of sound policy, by precipitating

this measure without due consideration. If the Senator would but look to the records of Congress for the last twenty years, he would find that such an imputation was groundless. A bill of similar nature, and with the same object in view, was urged upon Congress with great ability by Dr. Floyd, in 1821. Mr. Monroe, in his last annual message, and Mr. Adams, while President of the United States, recommended, in forcible terms, the attention of Congress to be given to the subject. In 1828, Congress did take it up; and a bill for the occupation of the territory was discussed at great length in both Houses. It failed in the Senate by a bare majority of two votes. It had been repeatedly before Congress since, and almost continuously since 1838-'39. There was nothing precipitate in all this, and certainly no want of due consideration. For his own part, he had always acted with studied delicacy in the matter. When it was urged upon him that while so many difficulties were to be adjusted with Great Britain, it was inexpedient to take any decided step in relation to a minor point, he refrained from pressing the subject to a final vote. Now, the main difficulties with England were adjusted; and there were none left pending but the minor ones, of which he considered this the most important. So far, then, from being chargeable with having chosen an inauspicious and inexpedient time for urging this measure, he thought he had selected the most appropriate, and he would say, critically appropriate, period, for taking a necessary, and almost indispensable step.

He understood the Senator's objections to the bill to be three-fold. First, he objects that the bill would, in its main provisions, be an infraction of the treaty of 1818, renewed in 1827; secondly, that, if carried out, it would involve our Government in the expenses of an armed military occupation of the territory; and, thirdly, that the territory is a useless acquisition, likely to prove, not only an incumbrance, but a disadvantageous one, by inciting our population to dispersion, instead of that concentration which he considers essential to the highest state of civilization.

Mr. L. here took these points in succession, and entered upon their refutation with elaborate arguments, fortified by documentary evidence.

First, he considered the arguments of the Senators who had taken ground that the bill would be an infraction of the treaty, and examined critically that branch of the subject, concluding with a reference to the proposition made to Mr. Gallatin, in 1826, by the British ministry, when they wanted an additional stipulation in the renewal of the treaty of 1818, for the right of joint occupancy; which Mr. Gallatin refused to concede, and upon the very ground that justified this bill; and showed it was not an infraction of the treaty, and that England had put it out of her power so to regard it, by the very application which she had

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made, and which she was refused by our negotiator. Mr. L., having disposed of this objection, proceeded to the next.

The second objection related to the expense of the proposed measure. In the outset, the Senator from South Carolina (Mr. McDUFFIE) had made a mistake in supposing the appropriation required by this bill would amount to \$200,000. It only called for half that amount. This, in ten years, (if obliged to be continued so long,) would amount to but \$1,000,000, instead of \$10,000,000, as the Senator argued. But had not the Senator entirely overlooked the numerous losses which this country had suffered for the last thirty years, through its commerce and its industry, by being gradually supplanted in that region by British trading companies? At one time, we had a trade, in furs alone, worth half a million of dollars annually; and, through the supineness of our Government, it had been allowed to dwindle down to \$2,000. Did we not, then, incur incalculably greater loss by neglect, than the annual expenditure now proposed? In the next ten years, would not the increased advantages to our commerce in the Pacific, the facilities afforded by the security of our harbors in the territory to our marine service, and all the other advantages of insuring a thriving population on the border of the Pacific, be infinitely more than the sum of one million, even if the occupation by military posts costs so much? Now, with regard to distance, inconvenience, and expense, he asked Senators only to draw a parallel between this measure and that of the establishment of the African squadron, which was to place the recaptured negroes in the colony of Liberia. He showed that this squadron was the twelfth part of the navy of the United States—to wit, 80 guns out of 940; and that the whole cost of the navy for 1843 was about \$7,000,000—the twelfth part of which was near \$600,000; and this was the annual cost of the African squadron, while only \$100,000 was proposed for the Columbia settlement. The African squadron was to be kept up five years, at near \$600,000 per annum, besides loss of lives and ships on the African coast. This was near \$3,000,000; yet no objection to that! Mr. L. commented on this strange preference given to an African over an American object, and insisted that, while millions could be lavished on the African squadron, no objection should be made to \$100,000 for saving the Columbia from foreign dominion.

As to the third objection—that of the country being composed of rocky mountains, regions either covered with volcanic remains or arid sands, with only a small portion of arable land, and that subject to alternate droughts and inundations of rain—he (Mr. L.) should say that the Senator (Mr. McDUFFIE) who entertained these opinions, must certainly be unacquainted with the vast amount of documentary evidence gained from eye-witnesses, whose testimony does not admit of a question of doubt, and all

which concur in proving that, in the Oregon Territory, there are extensive valleys not inferior to our Western valleys in size, unrivalled in fertility, and blessed with a salubrity of climate scarcely equalled by that of any State in this Union. Mr. L. here read a vast accumulation of documentary evidence in proof of this position.

Having met all these arguments in detail, Mr. L. proceeded with general arguments in support of the policy and expediency of the bill; he demanded why the British wanted it, if it was so worthless; animadverted upon the inconsistency of treating the territory as not worth having, and, at the same time, dreading a war from Great Britain, if we touched it; and concluded with an exhortation to Senators, before they decided upon voting against it, to consider well the effect which a rejection of this essential step would have—not only disappointing and discouraging our own citizens, but giving countenance to the pretensions of, and leaving open and undisputed to, a rival power, every sort of encroachment upon our national rights.

Mr. BERRIEN next obtained the floor; and, on his motion,

The Senate adjourned.

FRIDAY, January 27.

*The Oregon Territory.*

The bill for the occupation and settlement of the Territory of Oregon, which still continues the special order, came up, and the debate on the question of its passage was resumed from yesterday.

Mr. BERRIEN being entitled to the floor, addressed the Senate for about an hour and a half in opposition to the passage of the bill.

His objections were chiefly: First, that the provision undertaking to make a future grant of lands to settlers, is in contravention of the spirit and meaning of the existing treaty between this Government and that of Great Britain; next, that it is an inexpedient and impolitic time to legislate upon the subject at all; and, lastly, that this bill, under existing circumstances, is an injudicious interruption or interference with the constitutional prerogative of the Executive department, which has notified Congress that a negotiation is pending in relation to this subject.

He agreed with those Senators who held that the provision guaranteeing to settlers a grant of land would be an infraction of the treaty. He agreed with the Senator from South Carolina, (Mr. CALHOUN,) not only in his opposition to that provision, but also in regard to the inexpediency, under existing circumstances, of attempting to carry out other provisions of the bill. With most of what had fallen from the other Senator from South Carolina he also concurred, though he was not disposed to undervalue the importance to our commerce of our



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right to the territory, or the advantages which we might derive from its occupation and settlement. But, taking the subject in all its bearings into consideration, he could not but believe that he subserved the interests of this country best by giving his vote against the passage of the bill.

## HOUSE OF REPRESENTATIVES.

FRIDAY, January 27.

*Plan of an Exchequer.*

The House, upon the call of Mr. FILLMORE, resumed the consideration of the report of the Committee of Ways and Means on the subject of the exchequer—the question being on the motion of Mr. CUSHING to amend the resolution concluding that report, by striking out the word “not.”

Mr. FILLMORE, who held the floor, addressed the House at length. He commenced by referring to the charge which had been put forth, that the Committee of Ways and Means, in proposing no affirmative action on the subject of the exchequer, had neglected to discharge their duty. In order to test whether they had, he should content himself by referring to the manner in which the question was presented to the committee, and in which it now stood before the House and the country, as admitted by the gentleman from Massachusetts. More than a year ago, the scheme was first submitted to Congress, and then referred to a Select Committee, a majority of whom were the friends of the President. After two and a half months of reflection, this committee reported a substitute for the plan of the Executive, dispensing with its main features. If, then, any modifications of the exchequer were wanted—if the Committee of Ways and Means had neglected to discharge their duty in reporting modifications, he referred gentlemen to those reported by the friends of the Administration. The gentleman, too, who made the objection that the Committee of Ways and Means had neglected their duty in not reporting modifications, since they could not agree to the plan itself, had given notice that he would move to substitute the bill of the Secretary of the Treasury for his own bill, for the purpose of bringing the subject before the House in every possible shape. Now, he submitted it to the consideration of the House, whether the Committee of Ways and Means had not presented the subject in every shape possible, by not favoring either of the schemes! The gentleman from Massachusetts (Mr. CUSHING) had moved to strike out the word “not,” so as to make the resolution of the committee an affirmative proposition. He would state, in reference to that matter, that he had himself risen and proposed the word be stricken out, thereby making the resolution an affirmative instead of a negative proposition. He could not see the difference between voting in favor of a resolution declaring that

the exchequer should *not* be adopted, and voting against a resolution declaring that it should be adopted. If, indeed, there were any in the House, who, after the many discussions which had taken place, were unprepared to say whether they were in favor of, or against, the exchequer, he was sorry for it. He could not but admire the manly independence of the gentleman from Ohio, (Mr. PENDLETON,) who yesterday told the House that, although many of his constituents had petitioned for it, he must, after a close and careful examination of the subject, give his vote against the proposition. It was a determination resulting from an honest conviction of the heart, which he admired. He could not do otherwise than commend the spirit of the man who, when he found a measure to be right, resolved to hold himself ready to sustain it; and, if wrong, to condemn it. Nor could he think that there were men in the House who would take shelter of their opinions under a negative proposition. After some further remarks upon this head, he proceeded to an explanation of a position which was taken in the report of the Committee of Ways and Means, and which, he understood, was misconceived by some of his friends.

He noticed the objections which had been raised to a continuance of the present regulations of the Treasury Department, on the ground that the laws in force did not provide any place of security for the public money, and also that there were not sufficient provisions of law for the punishment of embezzlement. The gentleman from Massachusetts had argued that there were no provisions for the punishment of defaulters, except such as might be contained in the act of 1789, and the resolution of 1816.

Mr. CUSHING said his proposition was more qualified; and made another remark not heard.

Mr. FILLMORE alluded to the supposition entertained by some, that the Committee of Ways and Means had omitted their duty. He feared the House had forgotten their own action on the subject.

There were already existing by law ample checks and guards for the security of the public money. In the first place, there was the law of 1789, which provides that it shall be the duty of the Treasurer of the United States to receive and keep the moneys of the United States, and disburse them upon warrants drawn by the Secretary of the Treasury. Mark the words: “disburse them upon warrants drawn by the Secretary of the Treasury.” Then, what next? As to the medium in which the public dues shall be paid, we have (said Mr. F.) the joint resolution of 1816, which prescribes that they shall be paid in gold and silver, treasury notes, and the bills of specie-paying banks. Thus we have (said Mr. F.) the provision designating the officers who shall keep the public money; and next, we have the medium in which it shall be paid. Now, he wanted to know what more there was in the

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famous exchequer bill which came from the Treasury, or that of the Select Committee of this House, to secure the public treasure from embezzlement? Instead of calling the officer who is to have the custody of the public money, the Treasurer of the United States, the bill proposes to call them a board of exchequer, though one of them is to be this same Treasurer. First, there is to be the Secretary of the Treasury; second, the Treasurer of the United States; and then there are to be three commissioners to constitute this board of exchequer. The system now in operation was but a part of that "one idea" which provides for five officers, instead of one to do the same thing, and who are to be appointed in the same manner, viz., by the President of the United States, by and with the advice and consent of the Senate. But it had been said that there was now no security for the faithful custody and disbursement of the public money, and therefore the Committee of Ways and Means neglected their duty in failing to provide for it. Let us (said Mr. F.) look a little into the law on this subject. Gentlemen seemed to have forgotten that, in repealing the independent treasury, they left the penal part of it providing for the security of the public money untouched. They repealed the act so far as it relates to the receivers general, and the public buildings for the deposit of the public money, together with the provision requiring the public dues to be paid in gold and silver; yet the penal part of the act—which secures the faithful custody, transfer, and disbursement of the public money—this House had not the folly to repeal. Not only did they retain it, but they added to it. There were the most ample and the most penal provisions against anybody who should use the public treasure. In addition to the penalty imposed by the sub-treasury act, they had also provided for the evidence by which guilt should be ascertained—which the independent treasury act did not do.

There was the law as it now stood. Were not these provisions penal enough to satisfy the gentleman? Had the Committee of Ways and Means neglected their duty, in not imposing greater penalties? If so, he would point them to the provisions of the famous exchequer bill, and then see if that measure provided better securities for the public money than now existed. Instead of prohibiting the public officers from using, investing, or loaning the public money, they were expressly authorized to do it. He asked if the Committee of Ways and Means had neglected their duty, when they said that these penalties for the unfaithful application of the public money were ample, and far better than the exchequer bill.

But the gentleman said that this was no bank. Had he attempted to give his definition of what a bank was? He said, to be sure, that it performed the functions of a bank; but still it was no bank. Sir, (said Mr. F.) I have been somewhat puzzled myself to know what a

bank was. He had a definition of a bank here, which he had transcribed from a work lately published, called "The History of Banking in the United States." According to that definition, a bank was "a commercial institution or repository for the purpose of receiving the money of individuals, and to improve it by trafficking in merchandise, bullion, or bills of exchange; and may be of a public or private nature." Now, if this was the true definition of a bank, the exchequer certainly was one.

In the first place, it was an institution or repository, in the language of the definition, for the purpose of receiving the money of individuals. This exchequer proposed a bank of deposit for the purpose of receiving the funds of individuals, and either to keep them in security professedly—how far it might do that, he would not pretend to say—or to improve them by trafficking in goods, bullion, or bills of exchange. This, it would be perceived, it was expressly authorized to do; for it was to deal in bills of exchange, by buying and selling them. There was the definition from one of the standard works of the country, which showed that this exchequer was a bank, and was from a writer who was disinterested, and, so far as he had given evidence of it, without prejudice on the subject. But Mr. F. did not press this definition of a bank. A long time ago they had a discussion on the sub-treasury, which was created for the collection, safekeeping, transfer, and disbursement of the public money, by means of the Government's own officers. This went far beyond the sub-treasury. That did not propose the buying and selling of bills of exchange; this did. That did not propose the receiving the deposits of individuals. That did not propose a board of directors; this did. That did not propose branches in the States; this did. It would, therefore, be perceived that it went beyond the sub-treasury in its likeness to a bank.

Mr. GIDDINGS moved the previous question, and reminded the House that this was private-bill day.

Mr. CLAYE JOHNSON called for tellers, and they were ordered.

Mr. JACOB THOMPSON moved to lay the whole subject on the table.

Mr. CUSHING called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 66, nays 141.

So the resolution was not laid on the table.

The question then recurred on the previous question, and tellers were called and ordered.

Mr. CUSHING withdrew his amendment to strike out the word "not" from the resolution of the majority of the Committee of Ways and Means, which affirmed that it was "not" expedient to adopt the Executive plan of the exchequer.

Mr. BOARDMAN and READ were then appointed tellers to take the vote on seconding the demand for the previous question; and they reported 98 in the affirmative, and 75 in the

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negative; so there was a second. The main question was also ordered to be put. The question then recurred on the resolution of the minority of the committee, which was presented by Mr. **ATHERTON**, in the following words:

And that the Committee of Ways and Means be instructed to bring in a bill regulating the collection, safekeeping, transfer, and disbursement of the public moneys, in such a manner as shall, as far as possible, substitute provisions of law for executive discretion in the management of the finances; shall prevent the moneys of the people from being used for purposes of private speculation and emolument, and shall render the Government independent of the agency and influence of moneyed corporations.

Mr. **PICKENS** wished it to be understood that that was not a substitute for, but an addition to, the report of the majority of the committee.

The yeas and nays were called for on the amendment; and being ordered, resulted—yeas 105, nays 116.

The question then came up on the adoption of the following resolution of the Committee of Ways and Means, viz:

*Resolved*, That the plan of an exchequer presented to Congress by the Secretary of the Treasury at the last session of Congress, entitled "A bill amendatory of the several acts establishing the Treasury Department," ought not to be adopted.

And, the roll having been called, the result was as follows:

**YEAS.**—Messrs. Adams, Allen, Landaff W. Andrews, Sherlock J. Andrews, Arnold, Arrington, Atherton, Ayer, Babcock, Baker, Barnard, Beeson, Bidlack, Birdseye, Black, Blair, Boardman, Botts, Boyd, Brewster, Briggs, Brockway, Bronson, Aaron V. Brown, Milton Brown, Charles Brown, Jeremiah Brown, Burke, Burnell, William Butler, William O. Butler, Calhoun, Thomas J. Campbell, Caruthers, Cary, Casey, Chapman, Childs, Chittenden, John C. Clark, Staley N. Clarke, Clifford, Clinton, Coles, Colquitt, Cranston, Cravens, Croes, Daniel, Garrett Davis, Richard D. Davis, Dawson, Dean, Deberry, Doan, Doig, Eastman, John Edwards, John C. Edwards, Egbert, Everett, Ferris, Fessenden, Fillmore, John G. Floyd, Fornance, A. Lawrence Foster, Gates, Gentry, Gerry, Gilmer, William O. Goode, Gordon, Graham, Granger, Green, Gustine, Gwin, Hall, Harris, Hays, Hopkins, Houck, Houston, Howard, Hubard, Hunter, Hunt, Charles J. Ingersoll, Joseph R. Ingersoll, James Irvin, James, Cave Johnson, John W. Jones, Keim, John P. Kennedy, King, Lane, Lewis, Linn, Littlefield, Lowell, Abraham McClellan, Robert McClellan, McKay, McKennan, McKeon, Mallory, Marchand, Alfred Marshall, Samson Mason, John Thomson Mason, Mathiot, Mathews, Mattocks, Maxwell, Maynard, Medill, Meriwether, Miller, Mitchell, Moore, Morgan, Morrow, Newhard, Oliver, Osborne, Owaley, Parmenter, Partridge, Payne, Pearce, Pendleton, Pickens, Powell, Ramsay, Benjamin Randall, Alexander Randall, Randolph, Read, Beding, Reynolds, Rhett, Ridgway, Riggs, Rodney, Rogers, Roosevelt, William Russell, James M. Russell, Saltonstall, Saunders, Sewell, Shepperd, Shields, Slade, Truman Smith, Snyder, Sprigg, Stanly, Steenrod, Stokely,

Stratton, Alexander H. H. Stuart, John T. Stuart, Summers, Sumter, Sweeney, Taliaferro, John B. Thompson, Richard W. Thompson, Jacob Thompson, Toland, Tomlinson, Triplett, Trotti, Trumbull, Turney, Underwood, Van Buren, Wallace, Ward, Warren, Washington, Weller, Westbrook, Edward D. White, Joseph L. White, Christopher H. Williams, Joseph L. Williams, Wood, Yorke, Augustus Young, and John Young—193.

**NAYS.**—Messrs. Barton, Borden, Bowne, Green W. Caldwell, Cowen, Cushing, Thomas F. Foster, Patrick G. Goode, Halsted, Hudson, William W. Irwin, William Cost Johnson, Isaac D. Jones, Morris, Rencher, Tillinghast, Thomas W. Williams, and Winthrop—18.

So the resolution was adopted.  
The House adjourned.

#### IN SENATE.

MONDAY, JANUARY 30.

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Mr. **YOUNG** remarked, that it was not his intention to detain the Senate long with the few observations he had to make, as the very elaborate discussion which the subject had received did not leave much that was new to be said. He thought, however, it would not be difficult to prove that this bill would not, and, indeed, could not, be viewed by Great Britain as an infraction of the existing treaty between that Government and this. He should not attempt to travel over the same ground so ably explored by the Senator from Missouri, (Mr. **LEWIS**,) in his statements of the foundation of our title. He should dwell chiefly on the fact, admitted by Senators on both sides, that our claim is prior and paramount to that of Great Britain. It would be necessary, however, to have a clear definition of what that claim is. He understood it to be based, in the first instance, on the discovery of the Columbia River by Captain Gray, in the year 1792. We have evidence of the admission of this fact, not only in the writings of British navigators, but in the recognition, by the British Government itself, of the name given by Captain Gray to the river. The discovery was followed up by that of the sources of the Columbia River by Lewis and Clarke, sent out by Mr. Jefferson for the purpose in 1805. Captains Lewis and Clarke explored the country, traced the river from its sources to its mouth, and took formal possession of the territory for the United States.

Our next claim grows out of the occupation of the country. The first settlement made in it was by John Jacob Astor, in 1811. In the war which followed, between this country and Great Britain, he was dispossessed; but in the restoration of Fort George (Astoria) to our Government in 1818, Great Britain recognized our right to that settlement, and consequently, to whatever title rose out of it. In fact, up to that restoration, and long after, we never heard of any claim to the territory on the part of Great Britain. Here, then, we had an addi-

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tional claim—that which grows out of the law of nations; for although, in the first instance, the law of nations recognizes as the first claim priority of discovery, it further requires that the discovery shall be followed up by occupation; and we had fulfilled the condition. We had made the discovery by Captain Gray, and Captains Lewis and Clarke; and had followed it up by occupation, which was only interrupted by the force of war, but subsequently the possession was restored to us as our right; and from the date of that restoration, in 1818, we have never parted with the occupation. The negotiations then, and every negotiation since, show that we maintained throughout this whole period our title, rights, and occupation of the territory.

We never have abandoned one iota of our claims to its sovereignty. On the contrary, we have evinced an unwavering determination to maintain our rights. It struck him that Senators were mistaken who urged that Great Britain had exclusive occupation of the territory; or that, from the use she makes of the stipulations of the treaty, she can acquire any title. It struck him, also, that it was a mistake to think she will ever look to the territory for agricultural purposes. And herein lay a great difference between her views and ours. They are, in fact, different, and yet not conflicting. We want the territory for agricultural pursuits mainly. She looks to it for the main pursuits of her Hudson Bay Company, which is the trade in furs.

Now, it is in conformity with the laws of nations that Indians—wandering tribes like the Arabs, or persons merely traversing a country for purposes of hunting, fishing, trading, &c.—have been regarded as no impediments to those who take possession of the soil for making a permanent occupation, and converting it to agricultural purposes. It was according to this recognized law of nations that Europeans settled on this continent, though it was at the time inhabited by the aborigines.

It was on this principle that the Pilgrim Fathers took possession of the soil of New England, and turned it to agricultural purposes, without breaking the law of nations by dispossessing the Indians who would not cultivate it. So in the Oregon Territory: the Hudson Bay Company, not having for its primary object agricultural pursuits, never had encouraged more culture of the soil than necessary for the temporary support of its employes. But, with our citizens, agriculture must be the primary object. And we have already a number of our citizens there engaged in this pursuit. There is no jealousy towards them on the part of the Hudson Bay Company, so long as they make agriculture their primary pursuit. What can be more convincing than this, that it is not for agricultural purposes the British look to the country? The apprehension, then, is entirely groundless, that they would view the occupation of the soil by our citizens as an infraction

of the treaty. Great Britain never will want it herself for agricultural purposes. No British company of capitalists will ever run the risk of investing their money in such a speculation.

If, as some gentlemen suppose, such a company has been formed, it must soon fall to the ground; for it never will come to any thing in practice. None but individuals living on the soil, and cultivating it for themselves, can fully realize its benefits. Our citizens are peculiarly suited for that purpose. Those who have gone there wish to remain, and others wish to follow them. They ask but the same protection of laws from us, which Great Britain affords to her subjects. They wish also to be assured of a grant of the lands they may reclaim from the wilderness. All this the Senator from Missouri proposes to do by this bill. He proposes to give them hereafter the grant they ask; to extend over them the Territorial laws of Iowa; and to establish a sufficient number of forts to give them protection from savage Indians. Now, may not all this be done without any infraction of the treaty? Mr. Y. here referred to a conversation between Mr. Gallatin and the British ministers, in the negotiation about the treaty, in which the British ministers themselves suggested that the laws of one of our organized Territories might be extended over the country, though we might not organize a new government in it. They also suggested a plan by which forts might be erected, and the soil might be cultivated. How, then, can it give Great Britain offence, that we carry out, by this bill, her own suggestions? Our citizens already there give no offence, by occupying any portion of the soil they please in agriculture. On the contrary, the most friendly feelings are evinced by the employes of the Hudson Bay Company towards them. It is only when they engage in the fur trade, that they are looked upon with jealousy. We all know that both Great Britain and her Hudson Bay Company are governed by what they consider their best interests. Their friendly disposition to our citizens engaged in agriculture shows that they do not look to that as their object. Why, then, should we suppose they would object to any number of our citizens taking up land for agricultural purposes?

Mr. Y. here read the remarks of Mr. Greenhow on the subject. He also referred to the opinions expressed by the Senator from Kentucky, (Mr. MOREHEAD,) the other day, with a view of showing that the Senator was mistaken in supposing the Hudson Bay Company had any object of making a permanent location of lands for agricultural purposes or settlements. The whole matter was explained by Mr. Lea. He says the greater portion of the settlers on the lands are missionaries, who proceeded to the territory for the benevolent object of benefiting the Indians, by teaching them the truths of Christianity, and the usages of civilized life. In the pursuit of this object, it was found essential that they should occupy and farm some

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land—both for subsistence, and with a view of instructing the Indians in the advantages of cultivation, over the precarious means of supporting life before known to them. At the forts of the Hudson Bay Company, no more land is cultivated than is absolutely necessary to supply the wants of those engaged in the primary occupation of the fur trade. There is nothing like an effort or disposition to make permanent settlements. It is a mere temporary occupation. There is nothing even of a permanent character in the forts of the Hudson Bay Company. They are mere stockade-forts, perishable in their nature, and only calculated for defence against Indians. He mentioned all this to show there will be no difficulty in the way of our citizens settling in the country. The Hudson Bay Company can have no objection, and will make none, to agricultural settlements. Now, this being the case, what is there, really, in the present bill, to give offence? Not the appropriation of portions of the soil for agricultural purposes; for no objection is made to that now, nor will there be after this bill passes. Not the establishment of forts; for that was suggested by the British themselves, and the example has been set by them. Not the protection of our citizens by the extension of our Territorial laws over the Territory; for they also suggested that, and set the example. Suppose they should object to any one of these things: can we not say to them, "You have done it; and if the treaty authorizes you, it authorizes us?" And as to the occupation of the fort at the mouth of the Columbia River: was it not Mr. Astor who first built it? and was it not restored to us in 1818, because the right of possession was in us? Have we not kept it ever since; and may we not now either repair it, rebuild it, or enlarge it, at our pleasure, without cause of offence? What else does this bill propose to do? To establish two Indian agencies. What objection can there be to that? It is well known to the British that our practice is to appoint Indian agents to protect and control the Indians in our territories. They know we have territory in Oregon, and Indians on it. They know that the duty of our Indian agents by no means interferes with their fur trade. And with respect to the jurisdiction to be extended over the country, do we not propose to avoid any interference with British jurisdiction, by the provision that any subjects of England accused of offence under our laws shall be transferred for trial to British authority? No difficulty or objection can therefore arise out of that portion of the bill. The next provision is, that \$100,000 shall be appropriated to carry out the measure. It was to be lamented that the treasury was in its present condition. But it did not seem to him to come well from the Senators of the old States to object to this small item of \$100,000, and, in short, to every appropriation required for the new States and Territories. They should contrast the appropriations for the

old States with those for the new; and before they object to the latter, judge fairly whether it was just or generous in them to become objectors. Yet how seldom were they disposed to mete out to the new States even the measure of justice. It was with the utmost difficulty the Senator from Kentucky (Mr. CRITTENDEN) last session obtained an appropriation of \$100,000 to remove some of the impediments to navigation in the Western waters. The usual annual appropriation for that object, so necessary, had been withheld for two or three years. In the just effort, too, to obtain an appropriation for the Western armory, did not the preponderance of the interests of the old States prevail to cut it down to the paltry sum of \$5,000? Why should the condition of the treasury be constantly held up as an excuse for not doing justice to the West, while the most extravagant and useless appropriations are lavished elsewhere? Look at the appropriations recommended to Congress this session. May not ten times the amount required by this bill be retrenched from them? What occasion is there for such an increased and extravagant naval establishment? Does not every one see that smaller vessels of war would do more service for the country than those large and costly frigates, too unwieldy to act with celerity or effect?

When all this would be duly considered, he was in hopes the Senators of the old States would drop their objections to this appropriation of \$100,000.

He trusted he had established a sufficient number of points to show that gentlemen were mistaken in supposing this bill could create any difficulty with Great Britain. He had shown that our claim to the territory is the best claim; that we have a right paramount to any that Great Britain possibly can have; that we have priority of possession, which we have never parted with; that we can give no offence to Great Britain in doing what she suggested to us we might do, and what she herself has done; that the occupation of the soil by our citizens is a legitimate occupation for agricultural purposes, to which she, merely in pursuit of commercial objects, cannot object; that we make no direct grant, and only undertake to do it hereafter—a provision which, by the uniform and undeviating practice of our Government, is never carried out till we have extinguished all other claims of title, as evinced by our uniform extinction of Indian titles; and that we are only raising objections, which, if not raised here, never would be thought of by Great Britain. It would be very well understood by Great Britain that, as a negotiation is pending for the adjustment of boundary, (and he believed that was the only question at issue in the negotiations about Oregon,) this Government would not carry out the provisions till that question was settled. The prospective nature of the provision would be so construed. The British Government could not help so con-

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struing it, knowing that, according to undeviating practice, we could not for some years (four or five at least) take the preliminary step of extinguishing the Indian title; without accomplishing which, we never make grants of lands. This is such a plain view of the case, that it seemed strange gentlemen should overlook it. Keeping it in view, they certainly could not find any provision in the bill justly meriting the objection that it could give offence to Great Britain. For his part, he viewed it in altogether a different light. He regarded it as he was sure the British themselves would regard it—as a great peace measure, instead of one calculated to produce strife. With these convictions, he should himself vote for the bill.

Mr. LINN did not rise to consume more than a very few moments of the time of the Senate. Indeed, he felt it unnecessary to do so, after the very lucid statement of the Senator from Illinois, placing the matter on the plain grounds on which it should be viewed. He (Mr. L.) should, therefore, not say another word on the subject of title, for that was conceded; nor was it necessary to recapitulate what had already been so repeatedly urged. He was sorry the proposition was made to recommit the bill, because he knew, at this late period of the session, it would be fatal; as a delay must arise which would, in all probability, bring up the subject again at too late a day to pass it through the other House, amidst the multiplicity of business at the close of the session.

This bill had been drawn up with great care, and with the special object of not leaving it obnoxious to the objection that it could be considered an infraction of the treaty with Great Britain. Indeed, so scrupulously had it been drawn up, that, instead of extending our Territorial laws over the country, merely as Great Britain suggested we might do, without being liable to objection on her part, that provision of the bill had been made to guard against any possible infringement on the rights of the subjects of Great Britain, coming under the operation of these laws; and it is provided that British subjects, accused of offences in our territory, should be handed over to British authorities for trial. The British minister told our minister how far we should not go; that is, that we should not organize a new government and laws for the territory; and the bill keeps clear of that, by taking their own suggestion of the means of accomplishing our object. With many of the positions of the Senator from Virginia he could agree, but he should draw opposite conclusions from them. For instance, they could stand upon the same ground as to what it was right to do; but, while the Senator conceived it inexpedient to do it, he would feel that, because it was right, it was expedient, and ought not, and could not, give offence. When it was done, suppose Great Britain remonstrated; what would be the natural course, but to say to her, Well, we did

it because you did; you set the example; if we are wrong, you must have been first wrong; so let us both talk the matter over, like sensible people, and set it right. This would be the result, and not war. England could not help seeing that, if we committed a breach of the treaty, it was a consequence of herself having been first guilty of the same breach of the treaty. And as to her resentment being more likely to be provoked on a point of honor than on the mere question of territory, he should ask, Were we to be treated as if we had no points of honor at stake?—no appreciation of such feelings? Are we only to think of dollars and cents, and have no regard for our national honor in this matter? The Senate of the United States would be coming to a low pass indeed, if the expenditure called for by this bill were to outweigh the national honor at stake in the decision of the question. England is to jeopard her dearest interests sooner than permit her honor to be touched; but we are to do nothing to maintain ours. He never could, and never would, come to such conclusions. He knew the gallantry and the chivalry of the Senator from Virginia; and it was not, therefore, in disparagement of any thing he had said that he made these remarks. He seemed to attribute to his (Mr. L.'s) colleague and himself a very pugnacious disposition towards Great Britain.

Mr. ARCHER disclaimed any thing personally applicable to the Senators. It was to the general tone of the friends of the bill he had alluded. The Senator from Missouri was the last man in this body for whom he could entertain unkind opinions.

Mr. LINN continued: What the Senator had stated amounted to this,—that it was his apprehension the British Government might make the remarks uttered here against its grasping policy, a pretext for hostile feelings; and that, taken in connection with General Jesup's letter on the subject of military posts in the territory, they could not help feeling resentment. Now, can the Senator, or any one else, suppose that Great Britain has any right to make objections to an officer of this Government freely expressing his opinions to the Executive, when officially called upon so to do; or that any Senator of the United States should be restrained from a free discussion of topics involving the interests and honor of our country, even if, in doing so, he is obliged to denounce the policy of a foreign power? Surely, any foreign power that would object to this freedom of discussion, must be only seeking for a bare pretext of quarrel. But he had no apprehension that this discussion would have any such effect. If it could have this effect, he would be glad to know how a quarrel was to be avoided. Nothing this Government could do to carry out its claims, or to assert its title to the territory, would be free from the same objections. There was no official act that could be devised—no possible step that could be taken, which would not be

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deemed conflicting with British interests. If we are to consult nothing but the preservation of harmony, we must remain perfectly quiescent, and let British interests grow up and overspread the territory without interruption or remonstrance. Let the Hudson Bay Company go on settling the whole country, and turning its entire resources to its own advantage; let her have undisputed possession of the North-west territory from the Russian settlements to Mexico, and she will rejoice. That is the only way in which we can please and gratify that company, and conciliate the British Government. Any one step we take, no matter how trivial, to secure or promote our own interests there, must lessen their satisfaction.

The Senator from Virginia must certainly have strangely misconceived his (Mr. L.'s) remarks, the other day, in relation to our loss of the fur trade. What he (Mr. L.) had stated was, that our fur trade, once amounting to \$500,000 per annum, had dwindled down to \$2,000. Not that the fur trade had been extinguished, or the fur animals exterminated, so as to make this difference; but that, to the amount of half a million of dollars annually, our fur trade in the North-west territory had been usurped by the Hudson Bay Company. Through the supineness of our Government, the Hudson Bay Company had been allowed to supplant us in our own soil. The trade is not destroyed; it has passed from our hands into those of the Hudson Bay Company. The company has undoubtedly, in some cases, trapped out the country—that is, reduced the supply of beaver. But it takes care to resuscitate such districts.

He had placed this bill on three grounds of immediate national and domestic interest to this Government: First, it will give protection to our citizens on the western frontier of the new States and Territories against the Indians congregated there for the relief of the old States; secondly, it will protect what remains of our fur trade, and have some tendency to restore what we have lost; and, thirdly, it will, by the protection and encouragement it affords to our citizens going to the territory, or there already, induce that occupation which is essential to the maintenance of our title and our rights. In relation to the system of military forts, he was fortified in his estimate of their importance, by the reports of the executive departments, and the recommendation of the subject to Congress, made by three or four Presidents of the United States. How the principles of this bill can, on any rational ground, produce war with Great Britain, he was at a loss to conceive, unless she is determined to snatch at any pretext as an occasion for war. She has herself gone beyond the point at which she can recur to the treaty for a pretext. She has said we may go so far without infraction of the treaty; and we only propose to do what she has suggested. The bill proposes nothing inconsistent with the admis-

sions of her ministers as to what we might do, and had a right to do. If his friend from Virginia meant to press his motion for recommitment, he hoped it would be with instructions.

Mr. AROHER said he would have no objection. The Select Committee being discharged, he was at some loss to know what committee to make the recommitment to. Perhaps the Committee of the Whole would be the best. But the recommitment might be dispensed with, if the Senate would agree to strike out the provision relating to the grant of lands. He would first try that motion, reserving the right, should objection be made, of putting the motion for recommitment afterwards.

The question was then put for unanimous assent to strike out; but objection was made.

Mr. AROHER then said that it had been suggested to him that it would be best to recommit the bill, generally, without instructions. He would therefore move to recommit it to the Committee of the Whole.

On motion of Mr. HUNTINGTON, the Senate then went into executive session, and soon after adjourned.

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WEDNESDAY, February 1.

*The Oregon Territory*

The unfinished debate on the question of passing the bill for the occupation and settlement of the Territory of Oregon, came up as the special order.

Mr. RIVES recognized and adopted to the fullest extent the reasons so ably and eloquently enforced by the Senator from Missouri, (Mr. Linn,) in relation to the national importance of the territory. He also concurred with him in the opinion that our interests and our rights must suffer irretrievably by any further delay on the part of our Government to take the necessary steps for the occupation of the territory by our citizens. With the exception of the mere formality of taking possession of Fort George, (Astoria,) after the war, in 1818, our Government never had done any thing to obtain the occupation we claim as our right, or even the joint occupation in pursuance of the treaty. For nearly thirty years—since the breaking up of Mr. Astor's establishment in 1818—we had been out of possession, and the British Hudson Bay Company had been allowed the exclusive occupation for all practical purposes. However limited the views and objects of that company were for the first ten or fifteen years of this interval, it was in vain now to escape the conviction that these views and objects have been enlarged and extended so as to embrace agricultural pursuits, and the permanent settlement of selected portions of the territory. Pending the difficulties which had so long existed between Great Britain and the United States, in relation to the North-eastern boundary and other irritating subjects, the postponement of this question of the occupation

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and settlement of the Oregon Territory was, perhaps, the best thing that could be done, under the circumstances. Now that these leading difficulties have been so happily adjusted by the late treaty, it seemed to be the proper time for taking some steps on the part of our Government to preserve our rights.

Mr. R. reviewed the whole history of our title, and showed that it took its origin in the original charters granting to our ancestors the territory from sea to sea—from the Atlantic to the Pacific. He recapitulated the history of the Columbia River, and all the arguments of title founded on discovery; and from all these, he proved that we stood on quite a different foundation from that on which Great Britain would stand. We claimed the sovereignty as ours by right of discovery. But if we neglected the condition of the law of nations, which requires that we should follow up the discovery by occupation, Great Britain might contend that our neglect was a waiver of our right. The terms of the existing treaty had, however, saved our claim on the ground of discovery; but we could no longer, with safety, refrain from some efficient act of joint occupation, consistent with our obligations and good faith under the treaty. He considered the provisions of this bill, with the exception of that proposed to be stricken out, were in strict conformity with the spirit and meaning of the convention, and such as would be perfectly unexceptionable. He therefore would vote for the recommitment of the bill; and if the provision for grants of land should be stricken out, he would give a hearty support to the bill.

Mr. SEVIER hoped the Senator from Virginia (Mr. ARCHER) would modify his motion, which he now understood was to recommit the bill to the Committee on Foreign Relations, so as to make it to the Committee of the Whole.

Mr. ARCHER then moved to recommit the bill to a Select Committee.

The Senate then went into executive session; and, after some time spent therein, Adjourned.

THURSDAY, February 2.

*The Oregon Territory.*

The special order brought up the unfinished debate on the question of passing the bill for the occupation and settlement of the Oregon Territory—the motion pending being that of recommitting the bill to a Select Committee.

Mr. BENTON said there was one point on which every Senator who had yet spoken concurred—that the title to the Territory was in the United States. The land being our property, we have an unquestionable right to make whatever use of it we desire. It is enough for us to know we are right, for us to do whatever we think it is our best interest to do with our own property. Nobody has a right to be offended at this. If any other power takes

offence at what we propose to do with our own property, that should be no reason why we should not do it. The same arguments used on this occasion to tie up our hands from doing any thing lest it might provoke a collision with another power, had been pushed quite as far when General Jackson determined to insist upon our rights from France. Yet, because General Jackson was right, he persisted; and the result was contrary to the predictions of the timid—we obtained our right, and there was no collision. Were we now to pursue the same course, we would maintain our right too, and there would be no collision. But even if there should be war in consequence of our doing what we have an unquestionable right to do with our own property: that should not stop us. We know we are right, and we leave the consequences of maintaining our rights in the hands of Him who sides with justice.

It has been said that we should leave our cause to time—that time was our best negotiator. What had we ever gained by time? What had we ever gained by negotiation? In every instance that either had been tried between us and Great Britain, she had come off the gainer, and we the loser. It had been so with regard to the Oregon Territory: it had been so with regard to the North-eastern boundary. At first, all that England asked in relation to the North-eastern boundary, was a variation of the line, so as to give her a right of way at all seasons between Quebec and Halifax. When we would not agree to that, she offered to purchase as much territory as she wanted. That offer being rejected, her pretensions began to take root, and she had cultivated them so assiduously ever since, that at last she placed herself in a position to acquire more than ten times as much as she had at first asked. And in the treaty of 1842, our Secretary-negotiator gave her every thing she desired. So with the North-western boundary line between the Lake of the Woods and Lake Superior: she began by asking a revision of the line. Our negotiators were so astonished at even this boldness, that they had to ask the British minister to repeat the request, thinking there must be some mistake. But there was none, though the demand was made in the gentle language of a request that there might be a revision of the line. It was refused; but on that very request grew up her pretensions, till, in the Webster treaty of 1842, our Secretary-negotiator gave her every thing she demanded; brought her back fifty miles from the post to which she had retreated on her own territory in 1802, to get off our territory, and to avoid paying us duty on her goods passing through our country. After having voluntarily abandoned their position on our territory at Grand Portage, and gone fifty miles to the north, they are brought back, and allowed the joint occupancy of the Portage route in our territory, free of all duties, and forever. And we are told this treaty brings within the United State four millions of fine



mineral lands—as if we made that gain by it. To be sure, those four millions of acres were within our territory, because they were always within it—they never had been beyond it. They were ours before the treaty, as well as after it. England knew that, and had fled from the emporium of the north-west—the Constantinople of that region—to a position 50 miles north, where she was sure of not being on our soil. What she had been denied by every treaty, by every negotiation, and by every ministry of the United States, from the Revolution to the time of the present Administration, she had been granted by our Secretary-negotiator in 1842. What power, what authority had he to do what all other American negotiators had uniformly declared they had neither power nor authority for doing?

He wanted to see the power and the authority for altering the boundaries of the United States, to the entire advantage of a foreign power, and to the disadvantage and irreparable loss of the United States. He wanted to see the power and authority for giving these advantages to a foreign power—and particularly to the British Government, whose chief object in such acquisitions was to prepare herself for war. These demands of hers were the progeny of the last war. She then found out what an invaluable acquisition to her would be a safe road from Quebec to Halifax. She found out how valuable to her, in a warfare against us, were the services of her allies, the Indian bloodhounds on our North-western frontier. That war had cost us one hundred and twenty millions of dollars. It took but sixty millions of this to maintain ourselves against the whole power of Britain, by sea and land, except on the North-western frontier; and there alone it cost us another sixty millions. Her Hudson Bay Company, with its 1,200 men and its Indian bloodhounds, was another Great Britain, which cost us as much to resist as the naval and military forces of the empire of Great Britain itself. And by our late treaty, she had been secured in all those positions. She had been made strong to assail, and we weak to repel. She had gained every thing; we lost every thing.

Such has always been the result of time, delay, and negotiation with Great Britain. Such would be the consequence of time and negotiation in the settlement of the question of the Oregon Territory. Some Senator had calculated the distance by sea between us and the mouth of the Columbia River at eighteen thousand miles. Twenty years ago he had calculated it at twenty thousand from Boston to the Columbia, and he then made use of the calculation as an argument of the strongest kind, to show the importance of the harbor at the mouth of that river for our commercial and military marine in the Pacific—cut off, as they were, by a sea of twenty thousand miles in extent, from shelter or retreat on their own soil—and that harbor theirs, but unprepared for their use. The distance was the strongest ar-

gument in favor of its being made a naval depot and fortification. Gentlemen also talked of the distance by land being 8,000 miles, and the expense of carrying out this bill \$100,000. But they voted for the late treaty, by which Great Britain compels us to keep 80 guns afloat on the coast of Africa, at a cost of six hundred thousand dollars a year; and for what? To recapture negroes. And when we have them, what are we to do with them? Not to bring them to the United States, surely. We have no islands, like the West India islands, for taking apprentices at 40 years of age to work for our interests. But we are to colonize Liberia, where we have not a foot of territory. We are not to do any thing with our own territory of Oregon; but we are to colonize Liberia at an expense of five millions in five years! He would next year call for information as to the number of negroes our African fleet shall have recaptured; and he was pretty sure that by dividing the number into \$600,000, it would be found that the colonization of Liberia by African negroes would cost us more per head than the 640 acres apiece to each of our citizens choosing to settle in the Territory of Oregon.

On motion,

The Senate adjourned.

FRIDAY, February 8.

*The Oregon Territory.*

The unfinished debate on the bill for the occupation and settlement of the Oregon Territory, came up as the special order—the question pending being to recommit the bill to a Select Committee.

Mr. CHOATE, being entitled to the floor from yesterday evening, addressed the Senate for about an hour, in reply to Mr. BENTON's remarks of yesterday.

He confined himself chiefly to that portion of the speech of the Senator from Missouri which related to the treaty lately settled between this country and Great Britain, and particularly touching the North-west boundary at this side of the Rocky Mountains, between the Lake of the Woods and Lake Superior. The force of Mr. C.'s argument was to show that the true boundary line intended by the treaty of 1788 was that adopted by the treaty of 1842. First, he held that, at the time, no other route was known than that by the Grand Portage and southern chain of water and portage communication; and that the northern water communication never had been travelled, or, if it had, that the Senator from Missouri could not produce proof that, from the creation of the world to the year 1783, a human being had ever passed from Lake Superior to the Lake of the Woods by the northern route. In support of his view that the Portage route was the boundary line intended by the treaty of 1788, he adverted to various documentary and historical evidences, and referred to the English

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maps of the day, and the writings of persons belonging to the North-west fur companies. He insisted that, where he was able to produce such a quantity of concurrent testimony in support of his position, and the Senator from Missouri had not hitherto produced a particle of evidence in proof of his, the conclusion was inevitable that the southern route was that intended by the treaty of 1783; and therefore the treaty of 1842, instead of altering the boundary line, had merely carried out, in fact, the spirit and intention of the old treaty.

Mr. CONRAD renewed the motion (which had been previously made, but withdrawn) to commit the bill to the Committee on Foreign Relations.

The question was then taken on the motion to commit, and decided in the negative—yeas 22, nays 24.

The question now recurring on the motion to strike out the clause giving a bounty, in land, of 640 acres to each individual settler,

The question was then put on striking out the land clause; and decided in the negative—yeas 22, nays 24.

The question was then taken on ordering the bill to be engrossed for a third reading, and decided in the affirmative, as follows:

YEAS.—Messrs. Allen, Benton, Buchanan, Clayton, Fulton, Henderson, King, Linn, McRoberts, Mangum, Merrick, Phelps, Sevier, Smith of Connecticut, Smith of Indiana, Sturgeon, Tappan, Walker, White, Wilcox, Williams, Woodbury, Wright, and Young—24.

NAYS.—Messrs. Archer, Bagby, Barrow, Bates, Bayard, Berrien, Calhoun, Choate, Conrad, Crafts, Dayton, Evans, Graham, Huntington, McDuffie, Miller, Porter, Rives, Simmons, Sprague, Tallmadge, and Woodbridge—22.

The bill was then read the third time, and passed on a count—ayes 24, noes not counted.

The Senate adjourned till Monday.

MONDAY, February 6.

*The Eschequer Bill.*

The bill amendatory of the several acts in relation to the regulation of the treasury of the United States, was accordingly taken up, as in Committee of the Whole.

Mr. TALLMADGE addressed the Senate on the subject for about an hour, in explanation of the provisions and probable effects of the bill, should it become a law.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, February 8.

*Presentation of Washington's Sword and Franklin's Staff.*

Mr. G. W. SUMMERS now rose and addressed the Speaker, who recognized the honorable gentleman as in possession of the floor; and all eyes were at once turned to him, and the

whole House was at once hushed into silence. The galleries were densely filled with an anxious and attentive auditory, which had collected in anticipation of the interesting proceedings which were about to be witnessed. Many Senators occupied seats amongst the members in the House, and some of the representatives of foreign powers, accredited to this Government in diplomatic relations, were ranged below the bar; and all listened with profound stillness, while the honorable gentleman from Virginia spoke as follows:

Mr. Speaker: I rise for the purpose of discharging an office, not connected with the ordinary business of a legislative assembly. Yet, in asking permission to interrupt, for a moment, the regular order of parliamentary proceedings, I cannot doubt that the proposition which I have to submit will prove as gratifying as it may be unusual.

Mr. Samuel T. Washington, a citizen of Kanawha county, in the Commonwealth of Virginia, and one of my constituents, has honored me with the commission of presenting, in his name, and on his behalf, to the Congress of the United States, and, through that body, to the people of the United States, two most interesting and valuable relics, connected with the past history of our country, and with men whose achievements, both in the field and in the cabinet, best illustrate and adorn our annals.

One is the sword worn by George Washington, first as a colonel in the colonial service of Virginia, in Forbes's campaign against the French and Indians; and afterwards, during the whole period of the war of Independence, as commander-in-chief of the American army.

It is a plain cuttleau, or hanger, with a green hilt and silver guard. On the upper ward of the scabbard is engraven "J. Bailey, Fishkill." It is accompanied by a buckskin belt, which is secured by a silver buckle and clasp; whereon are engraven the letters "G. W." and the figures "1757." These are all of the plainest workmanship, but substantial, and in keeping with the man and with the times to which they belonged.

The history of this sword is perfectly authentic, and leaves no shadow of doubt as to its identity.

The last will and testament of General Washington, bearing date on the 9th day of February, 1799, contains, among a great variety of bequests, the following clause: "To each of my nephews, William Augustine Washington, George Lewis, George Steptoe Washington, Bushrod Washington, and Samuel Washington, I give one of the swords or cutleaux of which I may die possessed; and they are to choose in the order they are named." These swords are accompanied with an injunction, "not to unsheath them for the purpose of shedding blood, except it be for self-defence, or in defence of their country and its rights; and, in the latter case, to keep them unsheathed, and

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prefer falling with them in their hands, to the relinquishment thereof."

In the distribution of the swords, hereby devised, among the five nephews therein enumerated, the one now presented fell to the share of *Samuel Washington*, the devisee last named in the clause of the will which I have just read.

This gentleman, who died a few years since, in the county of Kanawha, and who was the father of Samuel T. Washington, the donor, I knew well. I have often seen this sword in his possession, and received from himself the following account of the manner in which it became his property, in the division made among the devisees.

He said that he knew it to have been the sidearms of General Washington during the revolutionary war—not that used on occasions of parade and review, but the constant *service sword* of the great chief; that he had himself seen General Washington wear this identical sword, (he presumed for the last time,) when, in 1794, he reviewed the Virginia and Maryland forces, then concentrated at Cumberland, under command of General Lee, and destined to co-operate with the Pennsylvania and New Jersey troops, then assembled at Bedford, in suppressing what has been called "the whiskey insurrection."

General Washington was at that time President of the United States, and, as such, was commander-in-chief of the army. It is known that it was his intention to lead the army in person on that occasion, had he found it necessary; and he went to Bedford and Cumberland prepared for that event. The condition of things did not require it, and he returned to his civil duties at Philadelphia.

Mr. Samuel Washington held the commission of a captain at that time himself, and served in that campaign, many of the incidents of which he has related to me.

He was anxious to obtain this particular sword, and preferred it to all the others, among which was the ornamented and costly present from the Great Frederick.

A the time of the division among the nephews, without intimating what his preference was, he jocosely remarked, "that, inasmuch as he was the only one of them who had participated in military service, they ought to permit him to take choice." This suggestion was met in the same spirit in which it was made; and the choice being awarded him, he chose this, the plainest and intrinsically the least valuable of any, simply because it was "the battle sword."

I am also in possession of the most satisfactory evidence, furnished by Col. George Washington, of Georgetown, the nearest male relative of General Washington now living, as to the identity of this sword. His information was derived from his father, William Augustine Washington, the devisee first named in the clause of the will which I have read, from his

uncle, the late Judge Bushrod Washington, of the Supreme Court, and Major Lawrence Lewis, the acting executor of General Washington's will: all of whom concurred in the statement, that the true *service sword* was that selected by Capt. Samuel Washington. It remained in this gentleman's possession until his death, esteemed by him the most precious memento of his illustrious kinsman. It then became the property of his son, who, animated by that patriotism which so characterized the "Father of his Country," has consented that such a relic ought not to be appropriated by an individual citizen, and has instructed me, his representative, to offer it to the nation, to be preserved in its public depositories, as the common property of all; since its office has been to achieve and defend the common liberty of all.

He has, in like manner, requested me to present this cane to the Congress of the United States, deeming it not unworthy the public acceptance.

This was once the property of the philosopher and patriot, Benjamin Franklin.

By a codicil to his last will and testament, we find it thus disposed of:

"My fine crab-tree walking-stick, with a gold-head, curiously wrought in the form of the cap of liberty, I give to my friend, and the friend of mankind, General Washington. If it were a sceptre, he has merited it, and would become it."

General Washington, in his will, devises this cane as follows:

"Item. To my brother Charles Washington, I give and bequeath the gold-headed cane left me by Dr. Franklin, in his will."

Captain Samuel Washington was the only son of Charles Washington, the devisee, from whom he derived, by inheritance, this interesting memorial; and having transmitted it to his son, Samuel T. Washington, the latter thus seeks to bestow it worthily, by associating it with the battle-sword, in a gift to his countrymen.

I cordially concur with Mr. Washington in the opinion that they each merit public preservation; and I obey, with pleasure, his wishes in here presenting them, in his name, to the nation.

Let the sword of the hero and the staff of the philosopher go together. Let them have place among the proudest trophies and most honored memorials of our national achievements.

Upon that staff once leaned the sage of whom it has been said "He snatched the lightning from heaven, and the sceptre from tyrants."

A mighty arm once wielded this sword in a righteous cause, even unto the dismemberment of empire. In the hand of Washington, this was "the sword of the Lord and of Gideon." It was never drawn, except in defence of the public liberty. It was never sheathed until a glorious and triumphant success returned it to the scabbard, without a stain of cruelty or dis-

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honor upon its blade. It was never surrendered, except to that country which bestowed it.

[Loud and long-continued plaudits followed the delivery of this address.]

The SERGEANT-AT-ARMS advanced to the seat of the honorable gentleman, and received into his custody the interesting relics.

Mr. ADAMS then rose to submit a resolution in relation thereto. He said:

Mr. Speaker: In presenting this resolution to the House, it may, perhaps, be expected that I should accompany it with some remarks suitable to the occasion; and yet, sir, I never rose to address this House under a deeper conviction of the want of words to express the emotions that I feel. It is precisely because occasions like this are adapted to produce universal sympathy, that little can be said by any one, but what, in the language of the heart—in tones not loud, but deep—every one present has literally said to himself. My respected friend from Virginia, by whom this offering of patriotic sentiment has been presented to the Representative Assembly of the nation, has, it seems to me, already said all that can be said suitable to this occasion. In parting from him, as after a few short days we must all do, it will on my part be sorrow, that in all probability I shall see his face and hear his voice no more. But his words of this day have been planted in my memory, and will there remain till the last pulsation of my heart. The sword of Washington! The staff of Franklin! Oh, sir, what associations are linked in adamant with those names. Washington! the warrior of human freedom—Washington! whose sword my friend has said was never drawn but in the cause of his country, and never sheathed when needed in his country's cause!—Franklin! the philosopher of the thunderbolt, the printing press, and the ploughshare.

What names are these in the scanty catalogue of the benefactors of mankind—Washington and Franklin! What other two men, whose lives belong to the 18th century of Christendom, have left a deeper impression of themselves upon the age in which they lived, and upon all after-times? Washington, the warrior and the legislator! In war contending, by the wager of battle, for the independence of his country, and for the freedom of the human race—ever manifesting, amidst the horrors of war, by precept and example, his reverence for the laws of peace, and for the tenderest sympathies of humanity. In peace, soothing the ferocious spirit of discord among his own countrymen into harmony, and giving to that very sword now presented to his country a charm more potent than that attributed in ancient times to the lyre of Orpheus. Franklin, the mechanic of his own fortune, teaching, in early youth, under the shackles of indigence, the way to wealth; and, in the shade of obscurity, the path to greatness: in the maturity of manhood, disarming the thunder of its terrors, the lightning of its fatal blast; and wresting from the tyrant's hand the

still more afflictive sceptre of oppression: while descending into the vale of years, traversing the Atlantic Ocean; braving, in the dead of winter, the battle and the breeze; bearing in his hand the charter of Independence, which he had contributed to form; and tendering, from the self-created nation, to the mightiest monarchs of Europe, the olive branch of peace, the mercurial wand of commerce, and the amulet of protection and safety to the man of peace on the pathless ocean from the inexorable cruelty and merciless rapacity of war; and, finally, in the last stage of life, with fourscore winters on his head, under the torture of an incurable disease, returning to his native land, closing his days as the Chief Magistrate of his adopted Commonwealth, after contributing, by his counsels, under the Presidency of Washington, and recording his name, under the sanction of devout prayer, invoked by him to God, to that constitution, under the authority of which we are here assembled as the Representatives of the North American people, to receive, in their name, and for them, these venerable relics of the wise, the valiant, and the good founders of our great confederated Republic, these sacred symbols of our golden age.

May they be deposited among the archives of our Government; and may every American who shall hereafter behold them, ejaculate a mingled offering of praise to that Supreme Ruler of the universe, by whose tender mercies our Union has been hitherto preserved through all the vicissitudes and revolutions of this turbulent world, and of prayer for the continuance of these blessings, by the dispensations of his providence to our beloved country from age to age, till time shall be no more. (Great applause.)

Mr. Speaker, I submit the following joint resolution:

*Resolved by the Senate and House of Representatives of the United States in Congress assembled,* That the thanks of this Congress be presented to Samuel T. Washington of Kanawha county, Virginia, for the present of the sword used by his illustrious relative, George Washington, in the military career of his early youth, in the seven years' war, and throughout the war of our national independence; and of the staff bequeathed by the patriot, statesman, and sage, Benjamin Franklin, to the same leader of the armies of freedom in the revolutionary war, George Washington.

That these precious relics are hereby accepted in the name of the nation; that they be deposited for safekeeping in the Department of State of the United States; and that a copy of this resolution, signed by the President of the Senate and Speaker of the House of Representatives, be transmitted to the said Samuel T. Washington.

The resolution was adopted unanimously, and with loud acclamation.

Mr. McKENNA said, as it was evident, after the interesting scene just witnessed, that the House was not in a fit state for the transaction of business, he would now move that the House adjourn.

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Mr. HOPKINS requested the gentleman to withdraw the motion for a moment, in order that it might be stated on the face of the resolutions that they were unanimously adopted.

The suggestion was acceded to, and the resolutions amended accordingly.

Mr. TALIAFERRO moved that the addresses of Messrs. SUMMERS and ADAMS, this morning, be spread upon the journal; and also that a copy be transmitted to Mr. Washington, of Kanawha, Virginia.

The motion was adopted, *nem. con.*

The House then adjourned.

## IN SENATE.

WEDNESDAY, February 8.

*Presentation of Washington's Sword and Franklin's Staff.*

A message was received from the House of Representatives, by Matthew St. Clair Clarke, their clerk, informing the Senate that that body had passed a resolution, and had directed him to ask the concurrence of the Senate therein; and had also directed him to state that the sword and cane, which were the subject of the resolution, were also forwarded, through their Sergeant-at-arms, to be presented to the Senate.

Mr. ARCHER rose, and said he presumed that this would be the proper occasion for making the motion which he desired to make—that the Senate proceed to immediate action upon the subject of the resolution which had just been communicated to them from the House of Representatives.

The resolution was then read, as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the thanks of this Congress be presented to Samuel T. Washington, of Kanawha county, Virginia, for the present of the sword used by his illustrious relative, George Washington, in the military career of his early youth, in the seven years' war, and throughout the war of our national independence; and of the staff bequeathed by the patriot, statesman, and sage, Benjamin Franklin, to the same leader of the armies of freedom in the revolutionary war, George Washington.

That these precious relics are hereby accepted in the name of the nation; that they be deposited for safekeeping in the department of State of the United States; and that a copy of this resolution, signed by the President of the Senate and Speaker of the House of Representatives, be transmitted to the said Samuel T. Washington.

Mr. A. then proceeded to address the Senate.

Mr. President: The grounds of the proceedings of the other House, in reference to these invaluable relics, not being necessarily supposed to be known to this body, it may not, perhaps, be considered improper or inappropriate, (coming, as they do, from a citizen of that State which I have the honor in part to represent,) that I should make some brief remarks before

committing the resolution to the disposal of this honorable body.

Sir, it is known to all who have read the history of General Washington's life, that he left to four nephews each a sword, one of which had had the signal honor of being worn by him during the whole period of his military services, from the time he entered the army in the service of his country, then in a colonial condition, down to the memorable period when, having achieved his country's independence, and coupled his name with immortality, he resigned the high commission which he bore, and retired to the enjoyment of domestic tranquillity.

Sir, it was a mark of good taste on the part of one of the nephews of General Washington to select, as a memorial of that illustrious man most worthy of being presented to the Congress of the United States, this simple sword. It is a relic of no ordinary value in the estimation of that gentleman, as I am sure it will be in the estimation of the Senate and the country—having been the battle-sword of that hero, during the whole period of his immortal career.

Sir, I ought, perhaps, to say that there is no question of its identity, plain and simple as it is; and if I desired evidence to show that it was really the sword which General Washington had worn throughout his glorious career of military service, I would find sufficient to convince myself, at least, in its very plainness and simplicity.

But I will not go into an argument to prove its identity, nor will I trace its history: that has been already done in the other House, by an honorable member of that body, a colleague of mine; who has added, by the manner in which he executed that duty, another wreath to his own honor, and shown how well he deserved to be made the instrument of conveying to Congress this invaluable gift.

Sir, there may be those who think it is unfitting the dignity of Senatorial bodies to pay attention to the preservation of such simple relics as this; but I confess, if there be any such, I am not of the number.

Sir, those who have been the precursors of our course in the great career of liberty, have not been of the opinion that such mementoes were valueless. We have no record of any country, in which freedom has triumphed, where illustrious men, after they have passed from their mortal career, had not statues erected to their memory, and relics and memorials, such as those now lying upon your table, commemorative of their achievements, carefully preserved. They are calculated, in an eminent degree, to produce the feelings and the practice of virtue in successive generations. By associating the memorials of great achievements with the names of those who performed them, and presenting them continually to the eyes of men, they serve to inspire the same feelings which have produced such achievements.

Sir, judging from my own feelings, no statue

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nor mausoleum can produce so great an effect as the smallest relic which is intimately associated with the person of the benefactor of his country. These are, indeed, small and inconsiderable relics; but who are the persons, and what are the names, with which they stand associated?

WASHINGTON!—when this name is mentioned, who shall be presumptuous enough to conceive that eulogy can add any thing to the feelings which the mere sound of it produces? WASHINGTON!—of whom one of the most eminent men living in the present day, and himself the subject of a monarchy, has said, and said truly, that among uninspired men, that was the greatest name of all. And it is, Mr. President; for I must be permitted to say, if it were possible that a man as heroic and as virtuous as Washington, should be permitted, by a beneficent Providence, to be placed in authority now, he could not, by possibility, be as great a man as Washington was. And why? Because circumstances must, in every case, form one of the elements of greatness. Because no living man can again be placed in circumstances where he can signalize himself as our glorious Washington has done.

Sir, we may have many founders of liberty in every country and in every clime; but never can there be another founder of the liberties of a whole race; and though we should prove recreant to his memory, and treacherously refuse to preserve the mementoes of his fame, this is the character which Washington will receive in all aftertimes, from all races of men. Yes, sir, it is receiving General Washington in a light altogether too confined to claim his benefactions as our exclusive benefactions, and his fame as our fame.

Sir, the thousands of generations which are to spring up in aftertime upon the face of the earth, under the shadow of that glorious germ of liberty which has been planted upon this continent, when it shall have extended its luxuriant branches and brought forth its fruit in full maturity, will all of them claim Washington, as we now are entitled to claim him—as their benefactor, and the author of their liberties, as he has been of ours!

And FRANKLIN!—names associated in this country's history as the greatest benefactors of the human race—FRANKLIN, scarcely less illustrious for his important discoveries in science. Names now associated by the seemingly fortuitous gift of a mere cane!—inconsiderable, indeed, in itself, but of immense value, as having belonged to him.

Sir, the discoveries of Franklin, as a philosopher, (for I mean now only to pay a passing tribute to him in that view,) will hereafter be considered as most extraordinary benefactions to the cause of science—greater than those of any man that has lived in any age of the world.

Such are the names which are here associated by these trifling gifts! And what is it that the Senate is now called upon to do by this resolution! To pay a passing tribute of hom-

age or admiration? No; that is not the word to be employed in speaking of either of these men: it is not homage—it is not admiration; there is but a single word in our language that will express it—the tribute of our veneration.

Sir, it was the simplicity of the style of our venerated Franklin which distinguished him as much as his eminent virtues, and his profound knowledge, and his glorious contributions to the cause of liberty as well as science. He said of General Washington—the friend of liberty and the friend of mankind—that he deserved a sceptre. Sir, that great man not only merited, but he gained a sceptre. It was thought, at the period of his demise, not too great praise to say that he was enthroned in the hearts of his countrymen. And thus it is that he is destined to be sceptred in the estimation and the admiration of all succeeding ages.

Mr. President, I shall detain the Senate no longer. The inconsiderable meed of praise which I feel proud to bestow upon those illustrious names shall no longer be an interruption or impediment to the expression which I know the Senate is ready to make—of that tribute of veneration so justly due to the benefactors of mankind.

The resolution having been unanimously adopted,

On motion of Mr. ARCHER, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 8.

*The National Relics.*

Mr. TALIAFERRO submitted the following resolution, prefaced with a few observations, which were inaudible at the reporter's desk:

*Resolved*, That 20,000 copies of the full journal of the proceedings of the House on the presentation of the sword of Washington, be printed for distribution by the members of this House.

Mr. BRIGGS begged permission to amend the journal before that resolution was agreed to. He begged to move an amendment to the journal, by the addition of the following letter of Mr. Samuel T. Washington to Mr. SUMMERS, accompanying the sword and cane, which were yesterday presented to Congress:

COAL'S MOUTH, KANAWHA COUNTY, (Va.)

January 9, 1843.

MY DEAR SIR:—With this you will receive the war-sword of my grand-uncle, General George Washington, and the gold-headed cane bequeathed to him by Doctor Benjamin Franklin.

These interesting relics I wish to be presented through you, my dear sir, to the Congress of the United States, on behalf of the nation.

Congress can dispose of them in such manner as shall seem most appropriate, and best calculated to keep in memory the character and services of those two illustrious founders of our Republic. I am, with esteem, yours,

SAMUEL T. WASHINGTON.

To HON. GEORGE W. SUMMERS,  
House of Representatives.

FEBRUARY, 1843.]

*State of the Finances.*

[27TH CONG.]

The motion to amend was agreed to; and the resolution of the gentleman from Virginia was then adopted.

MONDAY, February 13.

*State of the Finances.*

Mr. WISE called for the reading of the Message from the President, received in the course of the morning; and it was read as follows:

*To the House of Representatives:*

I herewith transmit to the House of Representatives a report made to me on the 9th instant, by the Secretary of the Treasury, on the subject of the present and prospective condition of the finances.

You will perceive from it, that even if the receipts from the various sources of revenue for the current year shall prove not to have been overrated, and the expenditures be restrained within the estimates, the treasury will be exhausted before the close of the year; and that this will be the case, although authority shall be given to the proper department to reissue treasury notes. But the state of facts existing at the present moment cannot fail to awaken a doubt whether the amount of the revenue, for the respective quarters of the year, will come up to the estimates; nor is it entirely certain that the expenditures which will be authorized by Congress may not exceed the aggregate sum which has hitherto been assumed as the basis of the treasury calculations. Of all the duties of the Government, none is more sacred and imperative than that of making adequate and ample provisions for fulfilling with punctuality its pecuniary engagements, and maintaining the public credit inviolate. Any failure in this respect, not produced by unforeseen causes, could only be regarded by our common constituents as a serious neglect of the public interests. I feel it, therefore, to be an indispensable obligation, while so much of the session yet remains unexpired as to enable Congress to give to the subject the consideration which its great importance demands, and most earnestly to call its attention to the propriety of making further provision for the public service of the year.

The proper objects of taxation are peculiarly within the discretion of the Legislature; while it is the duty of the Executive to keep Congress duly advised of the state of the treasury, and to admonish it of any danger which there may be ground to apprehend of a failure in the means of meeting the expenditures authorized by law.

I ought not, therefore, to dissemble my fears that there will be a serious falling off in the estimated proceeds both of the customs and the public lands. I regard the evil of disappointment in these respects as altogether too great to be risked, if by any possibility it may be entirely obviated.

While I am far from objecting, under present circumstances, to the recommendations of the Secretary, that authority be granted him to re-issue treasury-notes as they shall be redeemed, and to other suggestions which he has made on this subject; yet it appears to me to be worthy of grave consideration whether more permanent and certain supplies ought not to be provided. The issue of one note in redemption of another, is not the payment

of a debt; which must be made, in the end, by some form of public taxation.

I cannot forbear to add that, in a country as full of resources—of such abundant means, if they be but judiciously called out—the revenues of the Government, its credit, and its ability to fulfil all its obligations, ought not to be made dependent on temporary expedients or on calculations.

The necessity of further and full provision for supplying the wants of the treasury will be the more urgent if Congress, at the present session, should adopt no plan for facilitating the financial operations of the Government, and improving the currency of the country. By the aid of a wise and efficient measure of that kind, not only would the internal business and prosperity of the country be revived and invigorated, but important additions to the amount of revenue accruing from importations might also be expected. Not only does the present condition of things in relation to the currency and commercial exchanges produce severe and distressing embarrassments in the business and pursuits of individuals, but its obvious tendency is to create also a necessity for the imposition of new burdens of taxation, in order to secure the Government and the country against discredit from the failure of means to fulfil the public engagements.

JOHN TYLER

WASHINGTON, February 13, 1843.

The contents of the letter of the Secretary of the Treasury to the President of the United States, may be summed up as follows:

The Secretary estimates the receipts during the year 1843 at \$20,483,358 36, to be derived from the following subjects:

Customs	-	-	-	\$13,000,000 00
Lands	-	-	-	2,500,000 00
Miscellaneous sources	-	-	-	100,000 00
Loans and treasury notes	-	-	-	4,883,358 36

To which he adds the balance in the treasury on the 1st of January, so far as can be ascertained - 2,840,041 72

Aggregate of means - \$23,323,400 08

The expenditures during the same period as follows:

Civil and Miscellaneous	-	\$4,445,122 00
Military service, &c.	-	9,286,428 00
Naval service	-	7,881,223 00
Interest on loan and treasury notes	-	1,320,000 00

\$22,932,773 00

Estimated balance on 1st Jan. 1844 \$390,627 08

The Secretary then states that this estimate does not include private bills, and other items of appropriations not contained in the official estimates. Of treasury notes, there are \$11,066,977 69 outstanding; of which the whole, except \$2,402,890 16, carry interest after maturity. To provide for these, the Secretary recommends that authority be given to place them on the same footing with other treasury notes. The letter then concludes with a recommendation that a duty be imposed upon

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*Assumption of State Debts.*

[FEBRUARY, 1843.]

tea and coffee, and such objects not now taxed, as would increase the revenues of the Government.

Mr. FILLMORE moved to refer the Message and Report to the Committee of Ways and Means, and to print them; and on this motion he moved the previous question.

Mr. WISE asked the gentleman from New York (Mr. FILLMORE) to accept, as a modification of his motion, certain instructions to the Committee of Ways and Means, which he read from his place. They were, in substance, instructing the Committee of Ways and Means to examine into the state of the finances, and to report to the House whether, in their opinion, the revenues of the Government will be sufficient to sustain its operations through the coming year; and, if not, what measures ought to be adopted to provide the necessary ways and means for carrying on the Government.

Mr. FILLMORE refused to accept the modification.

Under the operation of the previous question, the reference was made, and the printing ordered, as moved by Mr. FILLMORE.

## IN SENATE.

TUESDAY, February 14.

*Financial Statement.*

The PRESIDENT *pro tem.* laid before the Senate a communication from the Treasury Department, transmitting, in further compliance with a resolution of the Senate of the 28th of December last, the following statement, showing the amount of accruing duties during the 3d and 4th quarters of the past year, and the value of the imports and exports for the last quarter, as follows:

Accruing duties during the 3d quarter	\$3,305,506 31
Accruing duties during the 4th quarter	2,579,889 28
	\$5,884,395 59
Value of Imports and exports during the 4th quarter of 1842—	
Imports free of duty	\$6,450,601
“ paying duty	7,197,498
	\$13,648,094
Exports of foreign goods—	
Free of duty	1,023,569
Paying duty	1,219,582
	2,243,151
Ex'pts of domestic produce	25,229,818
	\$27,472,919

## HOUSE OF REPRESENTATIVES.

TUESDAY, February 14.

*The District Banks.*

Mr. UNDERWOOD, from the Committee for the District of Columbia, said he was instructed to report a resolution to discharge the Committee

of the Whole from the further consideration of the bill for the recharter of the District banks. He wished the vote on the resolution to be made a test vote.

The resolution was read as follows:

*Resolved*, That the Committee of the Whole House be discharged from the further consideration of the bill to extend the charters of the banks of the District of Columbia, being House bill No. 676.

Mr. CLAY JOHNSON moved that the resolution be laid on the table, and asked the yeas and nays on the motion.

They were taken, and resulted—yeas 87, nays 108.

So the resolution was not laid on the table.

Mr. WELLER demanded the yeas and nays on the adoption of the resolution. He said to extend the charter of six banks in this District for ten years, without *one moment's consideration or debate*, was an outrage upon all propriety in legislation.

The resolution was then adopted—yeas 114, nays 98.

## IN SENATE.

THURSDAY, February 16.

*Assumption of State Debts.*

The resolutions submitted by Mr. RIVES yesterday came up for consideration.

Mr. RIVES stated the circumstances under which these resolutions came up as a substantive proposition, distinct from the resolutions of the Senator from South Carolina, and the additional resolutions offered by the Senator from Maine, to which they were intended to be offered as an amendment, so soon as the amendment of the Senator from New Jersey should have been disposed of one way or the other, had not these other propositions been laid on the table by the vote given yesterday. But the question of the debts of the States, and the interference of the General Government on that subject, having been once brought before the Senate by the Senator from Maine, he (Mr. RIVES) considered it his duty to present these resolutions for the purpose of obtaining a direct and unequivocal vote of the Senate. It was of the greatest importance to set at rest the idea which had got abroad, that this Government can have any constitutional power to saddle itself, in addition to its own debts, with a debt of two hundred millions of dollars, incurred by a portion of the States of the Union in their individual capacities, and for their own local purposes, and in the prosecution of their own local policy. The very suggestion of such an idea appeared to him so monstrous, and tending so obviously to a course of policy subversive of every principle upon which this Union had its existence, that he considered Congress was bound in duty to itself, and to the country, to put upon it promptly and at once the seal of its condemnation.



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It would not do for gentlemen to deny that any question of assuming the debts of the States had been mooted to Congress. If it was not done directly, and in a substantive form, the way was paved for the proposition, and in a manner so plain and obvious, that no one could be left an instant in doubt as to the end to be attained. The proposition was, at the present moment, before the other branch of Congress, in a direct form, to grant to the State Governments scrip, based on the public lands, for the avowed purpose of relieving them from their indebtedness. The Senator from Maine, in his resolutions offered as amendatory of the resolutions of the Senator from South Carolina, had in this chamber, but a day or two since, promulgated the doctrine that it is the duty of Congress, by every constitutional and proper means in its power, by the adoption of measures to restore and preserve a currency of uniform value throughout the United States, by the collection and disbursement of the public revenue, and the regulation of the administration of the public finances, and in such a way as shall be least burdensome to the people, &c., to render every practicable aid and encouragement to the people of the several States in their efforts to meet their engagements, and to discharge the obligations into which they have entered. What did all this mean, if it did not mean that it was the duty of the General Government to assist the indebted States in the payment of their debts? Mr. R. here entered at large into the history of the origin of this suggestion, and alluded to the recent action of the Legislatures of two of the indebted States renouncing this idea. He argued that now was the time to extinguish all delusive hopes of aid from the General Government. Let Congress convince the States, by a decisive and unanimous vote, that nothing of the kind will be entertained, and they will at once apply themselves to their own resources for liquidating their indebtedness. It was not his intention to enter at large into a discussion of the various topics bearing upon this subject. He had merely risen to explain his motives in offering these resolutions as a distinct measure, and would conclude by recommending that a vote be taken on them, and such amendments as might be offered, with a desire to avoid discussion as much as possible, and to express the sense of the Senate at the same time, promptly and unequivocally, without further interruption to the business of the session.

Mr. ALLEN begged the Senator from Virginia would accept an amendment which he would send to the Chair, to come in after the word "States" in the eighth line of the second resolution.

The amendment was read.

Mr. MERRICK could not conceive why there was such an overweening anxiety at this time of general embarrassment—why there was

such a constant effort—such relentless zeal—on the part of the General Government, to join in the out-door and foreign denunciations of the indebted States; States which had incurred their responsibilities for the public good; which had not invoked the interference of the General Government; and into whose domestic arrangements the General Government had had no invitation to obtrude itself. While he disclaimed and denounced as impolitic and unwise the assumption of the State debts by the General Government, he claimed for his own State, as he would for each of the States, its right to its distributive share of the public domain, which, having subserved the purposes for which it was intrusted to the General Government, he contended should now be restored to the States; that they, in their turn, might be relieved from their embarrassments when they most needed them. He concluded by offering an amendment, to come in its proper order, after the pending question on the motion to amend should be disposed of. [For this amendment, see proceedings of February 18.]

Mr. WOODBURY said he did not rise to debate these resolutions, but to express an earnest wish that a direct vote would be taken by the Senate on both the material propositions. An evasion, or go by, by postponement, or laying them on the table, was derogatory to the deep importance of the question involved. This course need not lead to any protracted discussion or delay of the public business. The first question, relating to the assumption of the State debts, had been fully argued in this body on a former occasion. His mind had been long made up upon it. The State he partly represented had no doubts in respect to it. It was his belief that such an assumption was as fatal a measure in its effects, as a measure formally to dissolve the Union. It destroyed all the limitations between the powers and duties of the Federal Government, and those of the separate States. It was consolidation, and of the rankest and worst character, because it was indirect and insidious.

But he would not now be tempted into the argument upon the subject. It was proper, however, to repel suggestions which had recently been thrown before the public, that such an assumption had before been made by the General Government. This was a wretched misconception. It was not *such* an assumption at the close of the revolutionary war, or since the late war, of debts incurred by the States in the prosecution of those glorious struggles which achieved and maintained our independence. By that assumption, we then paid only our own debts—only what the States had paid or expended for us in the prosecution of those wars. We paid—or assumed, if you please—only debts incurred in prosecuting the wars of the Confederation and Union, in objects belonging to the central and General Governments. But all these

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debts, the assumption of which was now the subject of discussion, have been incurred for State objects; for local purposes; and many even for banking and other purposes most injudicious and ruinous; and none of them either by the request of Congress, or under its legislation, or under any responsibility to its authority.

The other question was connected with the distribution of the public lands—either directly, or by an issue of stock founded on them.

The objections to the principles involved in such a course—whether in reference to the constitution or expediency—had been fully discussed, in recent sessions, in both Houses of Congress. He would not go into any of them; and he thought the Senate need not be delayed much, if any, in their discussion.

But, in the present condition of the finances, to talk of giving away two or three millions, which the treasury estimates from the public lands; or to talk of imposing six millions more on the treasury, for three per cent. interest on two hundred millions of stock, seemed to him to be perfect insanity.

The Secretary of the Treasury and the chairman of the Committee on Finance both think that, with all the receipts from the lands, and the use of near seven millions more of borrowed money, we may be barely able to make the ends of this calendar year meet.

Do any gentlemen, under these circumstances, propose to borrow six millions more?—or to levy direct taxes for that sum, in order to issue this famous two hundred millions of stock?

Talk about this stock—for what sir? To injure State credit, and not strengthen it. This talk discredits the character and means of the States, which, if let alone, are perfectly competent in time to redeem their own obligations. We thus intimate that they are unable; while, if we step in, we also become spendthrift, bankrupt, and all are discredited together. No, sir. Our conduct is not, as the Senator supposes, that of a harsh or hard-hearted parent. On the contrary, the States are our parents—we, their children: they created us, and not we them; and, as children, we should abide by the constitution, and orders and powers they have prescribed for us.

Let us, then, speak openly, decidedly, manfully, on questions so momentous; and set the public mind, at home and abroad, at rest on this subject. It is due to the occasion, and to the expectations of the world; and can be accomplished with little or no loss of time.

Mr. MILLER submitted the following amendment for consideration, that, when in order, it might be appended to the resolutions:

That, while we disclaim all obligation on the part of the General Government to assume the debts of the several States, the justice, wisdom, and policy of making distribution of the proceeds of the public

lands among the several States, according to the federal population, is hereby admitted and affirmed.

Mr. CONRAD moved a postponement of the subject to Tuesday next.

Mr. KING said the subject involved questions on which every Senator had made up his mind; for he could safely assert that no one question of general policy had ever received a more thorough discussion than that of the distribution of the proceeds of the public lands to the States; and there was nothing in the new idea of an assumption of the State debts, or the power of Congress in the matter, that could not be fully considered in one night; so that gentlemen could come to-morrow as well prepared to vote, as they could on any day next week. If put over till Tuesday, either the resolutions or bill for the repeal of the bankrupt act will have to be laid on the table; whereas both subjects may be disposed of by proceeding with the resolutions to-morrow, and voting on them before Monday; leaving that day free to proceed with the subject of the bankrupt law.

Mr. CALHOUN remarked that he was not among those who believed that these resolutions are mere abstractions. He held them in a very different light. The subject involved was one of the greatest magnitude ever presented to the consideration of the Senate of the United States. It was fraught with consequences, that no man who anticipated the worst, anticipated half as bad as the reality will be. As the question was presented, in his opinion they were under the highest obligations to themselves, to the public credit, to the States, to the country, and to the world, to have a free and direct expression of the opinion of the Senate on the subject of these resolutions. Considering this, as he did, he held the repeal of the bankrupt law—as obligatory as he felt that to be on the Senate, both on account of its unconstitutionality and inexpediency—as nothing compared to an expression of an opinion on these resolutions—absolutely nothing. If it depended upon his vote to decide between the two, he would not hesitate the hundredth part of a moment. He would consider the time well consumed, if they devoted every moment of the remaining time of the session to the discussing of that subject, except what was necessary to be devoted to the consideration of the appropriation bills; and even these should not stand in its way. But he did not deem it necessary to occupy so much time upon it; for there was scarcely a single aspect of the question which was not fully understood by the country. The only one which had not been fully discussed, and public attention strongly called to, was the proposition alluded to by the Senator from Maryland, of issuing \$200,000,000 of stock, founded on the public domain, or its proceeds.

That was the only aspect in which the question was not thoroughly discussed; but it was an aspect which required full and ample dis-

cussion—such discussion as, from the nature of the question, it ought to receive. That was the only practical form in which it could be presented to the country; and if there were any in the Senate who concurred in that proposition—which, he must say, was one pregnant with the greatest disasters, involving, as it did, the sovereignty of the States, the purity of the constitution, the permanency of the Federal Union, and the happiness of the people,—he must say that, if there was any Senator in favor of the scheme, he hoped he would move a specific proposition; if not, that some one would present it in a negative form, that a direct vote might be taken upon it. The two parties (those in favor of assumption, and those opposed to it) stood in very different positions. The postponement of action would be on the side of those in favor of assumption; for it would be considered as a decision against us. He claimed, as a matter of fairness, (which, he was sure, gentlemen would accord,) to give those who were opposed to assumption in any form an express vote upon it, that the country might truly understand what were the impressions of that body upon a subject full of such momentous consequences. They were now standing in the midst of extraordinary times; the consequences of which would run far beyond the days of the youngest amongst them. Decide the question one way or the other. All that he wished was, that an early day should be appointed for taking the vote upon the subject; for the longer it was put off, the more improbable it would be that they would get an expression of opinion. And as the subject was not unfamiliar to Senators, he hoped they would go on with it to-morrow: that would afford ample time to investigate and mature their judgments. With this view, he concurred that the Senator from Mississippi (Mr. WALKER) had the right to make the motion that it be postponed till to-morrow.

Mr. CONRAD said this is a novel question—one that has arisen in the public mind within the last eighteen months. He concurred with the Senator from South Carolina, (Mr. CALHOUN,) in viewing it as a most important and momentous question; and the more he viewed it in that light, the more impressed he was with the conviction that time should be given for its deliberate consideration. Mr. C. proceeded at considerable length to show why it was necessary to make the postponement till Tuesday.

Mr. HENDERSON called to the attention of the Senate a fact, (which it seemed to him had been overlooked,) that the first time the question of the assumption of the debts of the States was publicly mooted, was in the Senate in the session of 1839 and 1840, when a lengthy and elaborate discussion arose on resolutions, which he read from the journal. These resolutions he considered as full and

declaratory on the part of Congress as any that could be now adopted.

Mr. WALKER said his colleague was greatly mistaken in supposing that this question of assumption originated in this Senate, or in this country. No, sir, it is of foreign birth; it is of British origin. It crossed the Atlantic in 1839, in the form of an authentic circular, from British bankers, calling for that "more comprehensive guarantee" of the assumption of the debts of the States by this Government. The assumption was a British, and not an American proposition; and, as such, it was encountered by the resolutions of the Senate in 1839. But this British proposition is now re-echoed on this continent—it has been solemnly introduced by a distinguished member of the other House at this session—it appears, in part, in the resolutions now before us of the Senator from Maine, (Mr. EVANS,) and of the Senator from Maryland, (Mr. MERRICK.) The proposition we must now meet, is that proposed in the other House—to distribute two hundred millions of a stock debt of this Government among the States, to enable them to pay their debts. This stock is to bear an annual interest of 8 per cent., and professes to be based, in whole or in part, upon the public lands. This Government is now in debt twenty-eight millions; and this is to add two hundred millions to that debt. We have now a national debt of twenty-eight millions, we will have this year a further deficit of at least six millions, even including the sales of the public lands; and now, when we cannot meet the existing debt and existing expenditures, we are asked to add six millions per annum to that debt. How is this to be paid? The public lands yield but a million of net revenue; and yet we are asked to derive from them a net revenue of six millions of dollars—that is, we must increase six-fold the revenue to be derived from the public lands. The lands are now sold at \$1 25 per acre; and we are now asked, if this stock is, in fact, to be based on the public lands, to increase the price six-fold; or, in other words, to sell them at \$7 50 per acre. If, then, the basing of this stock upon the public lands be not a mere delusion, you must raise their price from \$1 25 to \$7 50 per acre; or, in other words, that the old States are to pay their debts by increasing six-fold the burdens of the people of the West and of the new States. The West—the oppressed and neglected West—the West, where scarcely one dollar of the public moneys is expended—is to be burdened with the payment of the debts of those States which monopolize all, or nearly all, the expenditures of this Government, by augmenting six-fold the price of the public lands. This is the result, if this stock is, in fact, based upon the public lands. But is it so based? If, with hundreds of millions of acres of the public lands, *now subject to entry*, you sell but eight hundred thousand

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acres per annum, at \$1 25 per acre; how much of the same lands would you sell at \$7 50 per acre? Why, not enough to pay the expenses of the land system; and, in place of deriving six millions per annum, you would not receive one dollar of net revenue. How then, without looking at the great question of the payment of the *principal*, are you to pay the six millions of annual *interest*? Is it by direct taxation by this Government? How would this alleviate the burden, unless you made the tax unequal and unjust, by taxing *all* the States to pay the debts of but a part of the States? And if not derived from the public lands, or direct taxation, what is the only remaining resource? Why, to derive an additional revenue of six millions per annum, to meet the interest alone, by increasing the tariff; and, ultimately, many millions more to discharge the principal. Can you do it when you have an existing debt of twenty-eight millions, and cannot pay the interest of that debt, much less the principal, and your annual expenditures from the lands and tariff combined? This, then, is a proposition to bankrupt this Government. But, if you could grind out of the people an additional revenue of six millions per annum, by increasing the tariff, would it be constitutional, just, or proper? What! tax the people of all the States, and the commerce and exports of all, to pay the debts of some of the States? The proposition is one of spoliation and plunder. But this proposition of assumption professes to be based on a horror of repudiation by the States. And is not this proposition an open and wholesale repudiation of all their debts by the States that are indebted?

Mr. BAERY combated as unfounded the assertion that this was a question not entertained by the opposite party until lately; and referred to his own inaugural message, as Governor of Alabama in 1837, in which he denounced the incipient proposition in such terms as had attracted the notice of a distinguished editor, who, in commenting on it, contrasted that message with the messages delivered to the Legislatures of thirteen other States, every one of which had passed over the subject.

He referred to the letter of a celebrated British banker to General Harrison, when President of the United States, and asked,—would any British banker have dared to make such a proposition to General Jackson or Mr. Van Buren? But that letter was addressed to a party in power, which the writer considered pledged to the views he urged; and it was followed up by a more definite proposition to the new Secretary of State. British stock-jobbers, and money-changers then undertook to teach the Government of the United States the line of political and national morality.

Mr. ALLEN would take occasion to say, that he regarded the question involved in these resolutions as something more than a mere

abstract question, the decision of which would be of no import—as something more than the vague abstractions of human reasoning, which could produce no effect upon human affairs.

Sir, (said Mr. A.,) these resolutions, if voted on, will test the opinions of Senators, acting under the highest human responsibility, upon a question of the deepest moment to the whole United States; and by that expression of opinion they will be bound in future, or else they will subject themselves to censure by departing from it in their future action regarding this project of issuing two hundred millions of Government stock. If it were merely a question as to wasting that much of the public money, it would be one of less importance than it now is. But it is a question involving the power of taxation—that power which is considered the supreme power under every form of government, and upon which all other powers are predicated. The question here involved is, whether you will stretch the powerful arm of this Government over the several States, and permit it to engulf in its voracious maw all the taxing power, both national and State; in other words, it is a question of expunging the State constitutions and Governments through the agency of taxation. It is the assumption of a power on the part of this Government which was never contemplated by those who participated in the formation of the Federal Constitution. An abstraction, indeed! Why, you might say, with equal propriety, that the declaration of American independence was a mere abstraction; inasmuch as that declaration did not accomplish the result which it contemplated, but imposed the necessity of resorting to arms in order to accomplish it. Was that a mere abstraction? No, sir, it was ranked with the highest of political acts; yet it was as much an abstraction as the resolutions before you. It was the Senator from Maine who introduced this all-exciting topic, and at a moment when Congress is almost at its last gasp—when it is just about to expire. It was that gentleman who has thrown this firebrand amongst us—for a firebrand, I fear, it will be to the whole country. He spoke with some degree of censure of the resolutions of the gentleman from Missouri. Why, nobody dreamed two years ago of the assumption of State debts by the General Government; but now we find it is openly proclaimed in one branch of the Government, and advocated in the Legislatures of several of the States. It was intimated upon this floor, in the discussion this morning, as being a question on which the Senate would soon have to act efficiently and affirmatively. The idea seems to have travelled with locomotive rapidity.

These resolutions will show to the country what are the sentiments of her public men. If the gentleman from Maine, with his standing in this body and before the country, as one of the leading lights of the Whig party,

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*Fine on General Jackson.*

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would declare it to be his opinion that the Government possesses no power to pay the debts of the States; and that, if we did possess the power, it would be highly impolitic to do so;—if he would thus cut off the hopes of the British capitalists, he would accomplish two important objects. Should his example be followed by the able men of his party, he will have accomplished the great object of turning the attention of the States to the means of their own relief; and he will have accomplished another important object, namely: warning the country against the exercise of British influence upon American politics in the struggle of 1844. Without this, that influence is as natural and certain as the succession of one day to another.

And I desire to proclaim it now, that, if the Government do not take a decided and unequivocal stand upon this question, and say to these scrip-holders, You have nothing to hope for from either party, be the result of the election what it may;—if, instead of saying this, you continue to stand in an ambiguous position, this moneyed influence will be brought to bear—will unquestionably be brought to bear upon this country, and to contaminate the freedom of our elections. Does any man believe that the Democracy of this country—the pulsations of whose patriotic hearts are felt to the extremities of the Union—does any one suppose they will allow such a law to remain unrepealed? No, sir; we give you warning in advance. I do not believe that it will be in the power of the Senate to do an act which will tend more to establish the honor and credit of this country, and to ward off the insidious influences of foreign capitalists, than by the passage of these resolutions. Believing this, I shall continue to press upon the Senate the propriety of taking a specific vote.

The question then came, on Mr. CONRAD'S motion to postpone the further consideration of the subject to Tuesday next.

Mr. WALKER renewed his call for the yeas and nays; which were ordered.

The vote was then taken by yeas and nays, and resulted in the negative, as follows:

**YEAS.**—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Conrad, Crafts, Crittenden, Evans, Graham, Huntington, Mangum, Merrick, Miller, Morehead, Smith of Indiana, Sprague, and Tallmadge—19.

**NAYS.**—Messrs. Allen, Bagby, Benton, Buchanan, Calhoun, Fulton, Henderson, King, Linn, McDuffie, McRoberts, Phelps, Rives, Smith of Connecticut, Sturgeon, Tappan, Walker, Wilcox, Williams, Woodbury, Wright, and Young—22.

The question next came up on the motion to postpone till to-morrow; which was carried in the affirmative without a count.

## HOUSE OF REPRESENTATIVES.

THURSDAY, February 16.

*Oregon Territory.*

Mr. ADAMS, from the Committee on Foreign Relations, to which had been referred the bill from the Senate for the adoption of measures for the occupation and settlement of the Oregon Territory, and for extending the laws of the United States over the same, together with the House bill on the same subject, reported them without amendment, with the recommendation that they do not pass.

## IN SENATE.

FRIDAY, February 17.

*Fine on General Jackson.*

The bill to indemnify Major-General Andrew Jackson for damages sustained in the discharge of his official duties, came up in order as in the Committee of the Whole, on the amendment of the Committee on the Judiciary.

Mr. LINN said the very best argument he could offer against the introduction of the proposed amendment, and in favor of the original bill, would be found in the report made by the Committee of the House of Representatives to which this subject had been referred. It was recommended, in that report, that the money should be granted to General Jackson in consideration of his distinguished military services, and the gratitude due to him for his successful defence of New Orleans.

If it was to be put upon the ground of a reward for his military services, it was evidently inadequate. No one could question the patriotism, the valor, and the distinguished nature of the military services of Major-General Andrew Jackson, as displayed throughout the whole course of the late war, and particularly at the closing scenes of that war. If, therefore, the act of restoration of the sum of \$1,000 was to be taken to be in consideration of the distinguished military services of General Jackson in the defence of the country, it would be perceived at once that no friend of the General could vote for the bill, nor could General Jackson himself accept the money upon any such terms.

He had hoped that the vote would have been taken upon the bill without discussion, as had been done in the case of Matthew Lyon. It seemed to be otherwise ordained, however; and he would proceed to make a few remarks upon the subject. In all such cases as the one they were now considering, the law was necessarily silent. Necessity had no law. The question was, whether this was a case of that description; and upon this point there seemed to be no difference of opinion in the minds of those who were not biased by strong party feelings. They all agreed that his conduct was justified by stern necessity; that he acted, at all events, upon the motives

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[Fine on General Jackson.]

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of the purest patriotism. The President of the United States, as well as Congress, at that time, was aware of every step taken by General Jackson. The President had it in charge to see the laws of the country faithfully executed. Did the conduct of General Jackson, on that occasion, meet with any rebuke from President Madison? If his conduct had been an outrage or a violation of the laws, why did not the authorities take the necessary steps to arrest his course? No, sir; there was scarcely a dissenting voice throughout this broad land, from the opinion that he had acted correctly; and the only question that could come up now was, whether he carried his measures beyond the point which necessity absolutely required. In no point of view in which you can examine the subject, could his conduct be regarded in a more exalted light than that which exhibited him continuing his vigilance until there was not even the appearance of danger remaining. But this was a point about which gentlemen would differ. In one of his official reports, made in January, 1815, General Jackson told the administration that, notwithstanding the enemy had disappeared from the coast, yet he would continue the same measures for the security of the country which he had heretofore had in operation. There had not been quoted by gentlemen who had entered into this contest, either in Congress, or through the newspapers, any thing to controvert the truth of the declaration, wherein General Jackson announced to the world that he would continue, until every shadow of danger had disappeared, to use the most vigilant measures for the protection of the country. Was not this determination right? Was it not prudent? Was it not commendable?

The rumor of peace, which arrived through the British fleet, was near disorganizing his army. This was the reason, and the sole reason, why General Jackson thought it necessary to relax no effort, no exertion, for the safety of the place. But to revert to the position that necessity has no law, (Mr. L. said,) he would point out to Senators the instance where, under the old articles of the confederation, the States violated the constitution by raising an army in time of peace. It was justified alone on the ground of necessity. And for fear that his mere assertion would not be sufficient, (Mr. L. said,) he would, with permission of the Senate, read from the 25th number of the *Federalist*. [He here read the passage referred to.] The charter of the Bank of the United States had, on various occasions, been justified exclusively on the ground of necessity. It was inferred that the power to create such a charter, if it did not exist in the constitution, at all events ought to exist; and it was, therefore, argued to be lawful, on the ground of necessity. The invasion of our territory, the burning of the *Caroline*, and the murder of *Durfee*, were defended, on the ground of the necessity of the case, on the part of Great

Britain. Well, sir, (continued Mr. L.) the present President of the United States, in refusing to sign the bills for a United States bank, which Congress presented to him, was condemned by many persons for not yielding up his constitutional scruples; and with the permission of the Senate, I will read a few remarks in this connection, from a speech delivered in this chamber, on that occasion, by a very distinguished Senator from Kentucky, long celebrated for his unsurpassed eloquence. [Mr. L. here read extracts from the speech of Mr. Clay, to which he referred.]

Sir, you must well recollect the thrilling effect produced by the Senator I have quoted when he said, in his own emphatic manner, "I am not brave enough to throw myself down in the way of the prosperity of my country." All recollect, sir, that that Senator clearly intimated that if the President had constitutional objections to signing the bank bill, he should have permitted the bill to become a law, notwithstanding those objections. Mr. L. referred to many other instances in point, showing that the party which now opposed this bill on constitutional grounds, had uniformly waived such scruples when other officers in the public service were to be relieved from the consequences of assuming arbitrary power over civil rights, in the conscientious discharge of their official duty.

Why, he asked, was General Jackson to be made a solitary exception to this general rule? Why was he alone less worthy of a fair, just, and impartial consideration, than others whose services were less momentous to the country? Why was this bill alone to be denominated "a bill for the relief of Major-General Andrew Jackson?" Who asked for "relief" for General Jackson? Not himself—not one of his friends. It was an indemnity for damages which he sustained in the performance of a military duty, which saved the country from an invading enemy. The original bill, as he (Mr. L.) had introduced it last year, and this session, studiously kept clear of any reference to Judge Hall. It might have been passed without a word of debate. It was not by its friends that any allusion or unnecessary introduction of Judge Hall's conduct had been brought up. They had been forced into the question of its propriety; but they were, and still are, satisfied to have the bill in a form so simple as to make no mention whatever of the Judge. All they want is to do an act of even-handed justice towards General Jackson, such as had always been extended to other officers in the public service, under similar circumstances.

Mr. MILLER desired to state the circumstances under which the fine had been imposed, with a view of showing that it was for a contempt of court, in resisting the authority of the writ of *habeas corpus*, and suspending the civil functions of the law, by an unconstitutional and arbitrary exercise of military

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*The State Debts.*

[27TH CONG.]

power. He contended that General Jackson himself claimed the restoration of this fine, on the bold and open grounds that the judgment of the court was iniquitous and unlawful. He referred to his letter of the 1st of August, 1842, addressed to Jacob Gibson, in proof of this; and contended that, if the friends of General Jackson could not now show that the course taken by Judge Hall was iniquitous and unlawful, the claim must fall to the ground. That they could not do this, was the position he assumed; and in support of the assumption, he referred to the history of that constitution, of martial law, (which he considered undefinable, unless by negation,) and to the history of the writ of *habeas corpus*, from the act defining its power in the reign of Charles II., down to the present day.

If it had been either a pecuniary grievance, or a blot upon the escutcheon of his name, why did his friends, while so long in power—why did the Congresses fresh in the recollection of the transaction—why did the Van Buren administration, keen to catch at any thing to do justice to, or gratify, the military chieftain who appointed the succession—neglect the duty which now has sprung up so suddenly, and appears so urgent? Why let this act of duty sleep for a quarter of a century? It was because they had no conviction that it was necessary, either in support of General Jackson's character, or of their own continuation in power. But now there was a necessity to catch at every thing calculated to have a bearing on the presidential election of 1844. It was for this that it was now proposed to take back the hero of New Orleans to the scene of his military glory, with all Congress at his heels, and sanction, by an official act of national legislation, an outrage on the constitution and the laws of the country—and that, too, over the grave of Dominic Hall, who had faithfully discharged his duties, and left the only monument the country had to appeal to of an independent judge braving an arbitrary power such as he had to contend with. He should vote against the bill in any form.

Mr. McROBERTS said he was somewhat surprised that this question should be considered in any way connected with politics; and that the State Legislatures were pouring in instructions, with a view to control the votes of Senators in relation to this subject, for political purposes.

They had been asked, "Why the necessity for acting upon it now? What new motive had prompted the measure?" He would tell the Senate. It was because it must be acted upon at an early period, if it was to be done in the lifetime of the distinguished man who was the subject of it. It was for the purpose of letting him see and read upon the statute-book of this country that the fine had been restored to him, that its passage was asked for now.

They were told that, if they restored this money, it would amount to a damning reflec-

tion upon the character of Judge Hall. How, he would ask, could the character of the Judge be involved in the decision of the Senate upon this question? He had called General Jackson before him, and imposed the fine: the fine was paid; and, by its payment, the offence was atoned for. Was it not? The mandate of the court had been obeyed. Where, then, was there cause of complaint? No; it was not this. The reputation of Judge Hall was not implicated; there was some other reason by which gentlemen were actuated. As for the alleged contempt of court, he would say a few words upon that point. What was meant by a contempt of court? It would be recollected that a judge of a district court had been impeached before this body some years ago, for acting in his own case, (and, by-the-way, though he was not cashiered, he narrowly escaped—there being more than twenty votes in favor of his condemnation,) and the subject having in this way been brought to the attention of the Senate, a law was passed declaring what the law should be in reference to contempt; and the principles of the common law upon that subject were embodied in the act. What was considered a contempt of court? It was some act done in the presence of the court—some act which reflected directly upon the court as a court. Was it pretended that such was the case here? Judge Hall himself admitted that no court was held from the time martial law was declared until the army was disbanded. It could have been, therefore, no contempt of court; and if it were held that Judge Hall could punish for a mere contempt of his person, he must be permitted to say it was a new doctrine. No such case had ever occurred. He would challenge any man to produce an adjudicated case of the kind. General Jackson might, he would admit, have been prosecuted in a civil action; but he could not be punished for a contempt of court.

Mr. McR. then referred to the record of the court, to show that no contempt of court had ever been alleged by Judge Hall himself. He was at a loss to know how it could be contended that a military commandant was not the absolute master of his camp. True, there was nothing expressed in the constitution or the laws in regard to this matter. But the very power to declare war, it seemed to him, carried with it necessarily the power of the General to command his own camp; and the General must be himself the judge as to the limits of his camp.

## HOUSE OF REPRESENTATIVES

FRIDAY, February 17.

*The State Debts.*

Mr. W. COLE JOHNSON claimed the floor upon the motion of the gentleman from Pennsylvania (Mr. J. R. INGRAMSOLL) to print 10,000 extra copies of the majority and minority reports

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*The Question of Assumption.*

[FEBRUARY, 1848.]

from the Committee of Ways and Means on the proposition to issue \$200,000,000 Government stock to the States.

Various points of order were raised, all questioning the right of this subject to take precedence of all others during the morning hour, and discussed by Messrs. FILLMORE, SMITH of Virginia, BRIGGS, WELLER, and J. R. INGERSOLL.

The SPEAKER overruled all objections, and gave the floor to the gentleman from Maryland.

Mr. WM. COST JOHNSON then addressed the House up to the conclusion of his hour, in commenting on the report of the committee, and advocating his project for the issue of two hundred millions of Government stock.

Mr. FILLMORE called for the orders of the day.

Several gentlemen endeavored to get the floor on the subject which had been discussed by the gentleman from Maryland; but the Speaker decided that the morning hour had expired.

## IN SENATE.

SATURDAY, February 18.

*The Question of Assumption.*

The CHAIR then announced that the resolutions of the Senator from Virginia (Mr. RIVES) were before the Senate, as follows:

*Resolved*, That another of the prominent causes which tend to prolong and increase the financial embarrassments of the country, and to retard the ultimate restoration of public and private credit, is the uncertainty and suspense thrown over the policy of this Government, in regard to the debts of the States, by the agitation of projects for the virtual assumption of those debts by the authorities of the Union; that while this uncertainty is permitted to exist, its mischievous effect is to foster delusive hopes of relief from a quarter whence it can never legitimately proceed, and to divert the attention of the indebted States from that timely and energetic application of their own resources to the fulfillment of their engagements, which they would otherwise make, and which is the sole natural and proper reliance for the liquidation of their respective liabilities; and it is, therefore, urgently demanded by the interests of the parties immediately concerned, as well as by those of the country at large, that Congress should now explicitly and unequivocally declare the views it entertains of the appropriate and constitutional sphere of its powers and duties in relation to this subject.

*Resolved*, That, in the fundamental division and allotment of political power established by the constitution between the Government of the Union and those of the several States, there is no power or authority given to the former to provide for the payment of the debts incurred by the latter, in virtue of their undoubted competence, and within their separate and exclusive jurisdiction; that any attempt by the General Government thus to assume, and impose upon the people of the Union, the debts of individual States, would be not merely a gross perversion of the trusts confided to it, but an utter annihilation of that wholesome and necessary relation between power and responsibility, which is the vital principle of all representative govern-

ment; that such an arbitrary and unauthorized transfer of burdens, from those who created, and should alone be responsible for them, to others who are alien alike to their origin and their benefits, involves so flagrant a violation of the principles of justice, that it could not but most seriously impair the harmony, and ultimately jeopard the union of the States; and that any expectation, therefore, that this Government will at any time, now or hereafter, assume or provide for the payment of the debts of the individual States, directly or indirectly, is wholly unwarranted and illusory.

*Resolved*, That a just sentiment of respect for the character of sovereign States, incurring pecuniary obligations by a deliberate act of the public will, and a solemn pledge of the public faith through their constitutional and appointed organs, forbids the apprehension that any of the States of this Union will fail to call forth their utmost resources for the final redemption of their engagements; preferring every sacrifice to dishonor, and proud to illustrate that jealous spirit of independence which belongs to free republican States, by a stern and strenuous reliance on their own faculties for deliverance from their present temporary embarrassment.

Which Mr. ALLEN had proposed to amend, by inserting after the word "States," in the 9th line of the second resolution, the following words:

By the appropriation or pledge of any part of its revenue or other income; or by the issue, transfer, or pledge of any stock or other securities; or by the pledge of any part of the public domain; or by the pledge, appropriation, or diversion, or deposit of any part of the proceeds arising from the sales of the public domain, to such States, or to the holders of the obligations of such States, or by any other means, direct or indirect.

For the whole of which Mr. MERRICK offered the following as a substitute:

*Resolved*, That governments are rightfully instituted solely for the happiness of the governed, and, consequently, that Government is derelict in its duty, which shall refuse or neglect the full exertion of its legitimate powers for the relief of its citizens, whenever evils destructive of their happiness exist, which such legitimate exertion of the powers of government are competent to remove or alleviate.

*Resolved*, That evils of the most grave and distressing character do now affect a very large portion of the people of these United States, which it is fully within the competency of this Government greatly to alleviate, if not entirely to remove; and from which there is no relief to be expected, unless from the timely interposition of Government, till after long and protracted suffering.

*Resolved*, That the most prominent among these evils, are the great disorders of the currency; the unexampled depreciation of money, as compared with the products of industry, and all kinds of property; the consequent destruction of credit, and paralysis of trade and commerce; the large indebtedness of many of the States of the Union; and the pressure of direct taxation upon their people.

*Resolved*, That a fair and equal distribution among all the States of that vast amount of their common property, the public lands, held by this



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*The Question of Assumption.*

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Union, is called for by the present necessities of many of the States, would be eminently beneficial to all, and would greatly promote the happiness and welfare of the whole people.

*Resolved, therefore,* That it is the duty of the Government of the United States, without further delay, to exercise its unquestionably constitutional power over this subject, and to make such provisions for a distribution of the public lands, or a portion of the value thereof, among all the States, as will best tend to the relief of both the States and the people from the distresses and embarrassments under which they are suffering.

Mr. BARROW said he had too much respect for that body, and for himself, to enter into a discussion of the great principles involved in the resolutions and amendments, without proper investigation; but, being called upon to vote, it devolved on him, unprepared as he was, to say a few words in relation to the principles involved in the resolutions. A false issue was presented to the American people, through the press; and by a few remarks which had been made in the Senate since the introduction of the resolutions, a false issue was also presented as to the action which had been proposed in the other House. The question discussed there, and through the public journals, was, whether there should be an issue by the Federal Government of stock based upon the public lands, for the relief of the States; and not, as was represented by the remarks of the Senator from Virginia, (Mr. RIVES,) as a proposition for the Federal Government to assume the debts of the States. Now, he would not stop to discuss at large the abstract proposition of the power of the Federal Government to assume the debts of the States, without reference to the nature of those debts and the condition of the country, when the question shall be presented. He asserted that, if the action of this Government was sufficient to settle any constitutional question, the power of this Government even to assume the debts of the States has been, by the action of this Government, settled affirmatively. Whether the decision was correct or not—whether the action of Congress was a usurpation of power—was a question he would not then undertake to discuss; but he would call the Senate to the case and the occasion.

In 1790, during the administration of General Washington, Congress did assume the debts of the States—amounting to more than \$31,000,000; and \$4,000,000 of that amount was paid to the State which the honorable Senator (Mr. RIVES) who introduced these resolutions in part represents. He (Mr. B.) knew that Senators on the other side would say, in reply to this, that that was an assumption of debts contracted by the States during our revolutionary war, in a struggle which was the common cause of all. This did not affect at all the question of the constitutional power of the Government. And this case, as well as that, was to be settled on grounds of expediency alone; and it was the expediency of the meas-

ure then, and nothing else, that settled the question. South Carolina was indebted \$2,500,000, and the Government assumed the debt, to that extent, for her. Whether the exigencies of these States were such now as to make it expedient to interfere in any manner, was a question of expediency, and not of constitutional power, as he viewed, and as he thought the Senate would view it, when he presented it in connection with another subject. He did not wish to be understood as expressing an opinion that the Government had the power to assume, when the majority of Congress pleased, whether the debts were contracted for any and every purpose. He would only refer to one other instance of the assumption of debts—not of the States, but of individuals—on the part of the Government. The Government assumed the debt of individuals to the amount of £600,000, when the great leader of the State-rights party was at the head of the Government. In the treaty of 1803, between Lord Hawkesbury and Mr. King, the United States Government agreed to pay £600,000. For what purpose, and when? To British merchants for debts due to them by American merchants; not for debts in aiding in struggles for independence, but debts due by American citizens to English citizens when the war broke out. It was a subject of correspondence between the two Governments for a long time, when this Government finally obligated itself to pay the debts of those individuals. But, to pass by that, and come to the grounds in this matter. He held, in reference to this question, which was presented to the American people—the power and duty of the Federal Government to assume, in some form or shape, and to assume them speedily, to relieve the States, the heavy debts which were weighing them down—that it was the duty of the Government to interfere in some way. The public domain belonged to the States of this Confederacy. This was the platform on which he stood. The question was not whether this Government had the power to assume the debts of the States, but whether they ought to be assumed. He thought it was the duty of Congress, in this time of pressing need, to come forward and relieve the States, by appropriating to their use the proceeds of the public lands; and if it became necessary to anticipate those proceeds by the issue of stock, he could see no good reason why it should not be done; but he was inclined to think this would not be necessary.

Mr. RIVES said: The Senator from Ohio, the other day, had made an appeal to him to accept the proposition which he had submitted as an amendment of his resolutions. This he could not do, in the manner and form in which it was offered; but he had prepared a modification of that amendment, so as to make it applicable to the issue of the two hundred millions of Government stock. He had no objection so to modify his resolutions as to make them applicable to the mode of assumption. If this met

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*General Jackson's Fine.*

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the views of the gentleman from Ohio, he would adopt the modification.

The modification proposed by Mr. RIVES was then accepted as a substitute for Mr. ALLEN's amendment.

Mr. CONRAD moved to postpone the subject to the 1st day of December next.

Mr. WALKER wished an expression of the judgment of the Senate to be made in this case, that there might be no misconception in the public mind in reference to the subject. And he would say to the Senate, that, by refusing such expression, they would assuredly occasion repudiation on the part of the Legislatures of the States. He hoped that a direct vote would be taken, believing it, as he did, of far greater importance than any other subject which could possibly engage the attention of Congress.

Mr. CALHOUN was decidedly of opinion that a response ought to be given to the numerous petitions which had been presented to them, and to the resolutions offered by the Senator from Maine. They ought to put upon record a vote, declaring that it would be contrary to every consideration of expediency to adopt such a measure, in order to let the public creditors understand the true state of the question.

The motion to postpone was then decided in the affirmative, as follows:

YEAS.—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clayton, Conrad, Crafts, Crittenden, Dayton, Evans, Graham, Henderson, Huntington, Mangum, Merrick, Miller, Morehead, Phelps, Smith of Indiana, Sprague, Tallmadge, White, and Woodbridge—25.

NAYS.—Messrs. Allen, Bagby, Benton, Buchanan, Calhoun, Cuthbert, Fulton, King, Linn, McDuffie, McRoberts, Rives, Sevier, Smith of Connecticut, Sturgeon, Tappan, Walker, Wilcox, Williams, Woodbury, Wright, and Young—22.

MONDAY, February 20.

*General Jackson's Fine.*

Mr. LINN's motion to proceed with the unfinished business then brought up his bill to indemnify Major-General Andrew Jackson for damage sustained in the discharge of his official duty.

It was placed under consideration as in Committee of the Whole; the question pending being on the amendment proposed by the Committee on the Judiciary, to strike out the original bill and insert:

That, in consideration of the distinguished military services of Major-General Andrew Jackson in the defence of the city of New Orleans, and of the desire expressed by sundry citizens and Legislatures of this Union, in divers petitions and legislative resolutions submitted to the Congress of the United States, the fine of one thousand dollars imposed upon Major-General Andrew Jackson by the honorable Dominic A. Hall, be, and the same is hereby, restored; and that the Secretary of the Treasury be directed to pay to Major-General Andrew Jackson the said sum of one thousand

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dollars, with interest at six per cent. thereon, from the day of its payment by him, out of any moneys in the treasury not otherwise appropriated.

The Judiciary Committee also proposed to change the title of the bill to that of "A bill for the relief of Major-General Andrew Jackson."

The question recurred on the amendment of the committee—being the substitute for the original bill; which question was taken by yeas and nays, as follows:

YEAS.—Messrs. Archer, Barrow, Bates, Berrien, Clayton, Conrad, Crafts, Crittenden, Dayton, Evans, Huntington, Merrick, Miller, Morehead, Phelps, and Smith of Indiana—18.

NAYS.—Messrs. Allen, Bagby, Bayard, Benton, Buchanan, Calhoun, Choate, Cuthbert, Fulton, Graham, Henderson, King, Linn, McDuffie, McRoberts, Mangum, Rives, Sevier, Smith of Connecticut, Sturgeon, Tappan, Walker, Wilcox, Williams, Woodbury, Wright, and Young—27.

Mr. ARCHER moved to strike out the original bill, and to substitute in its stead the bill which was voted down in the Senate at the last session, as follows: "That there be remitted and refunded to General Andrew Jackson, out of any money in the treasury not otherwise appropriated, the amount of a fine and costs imposed upon him by the district court of the United States for the district of Louisiana, for an alleged contempt of court, with interest at the rate of six per centum per annum; provided always that this act shall not be construed as an expression of the opinion of Congress upon any judicial proceeding or legal question growing out of the declaration of martial law by General Jackson during the defence of New Orleans."

Mr. LINN demanded the yeas and nays on the amendment proposed; which were ordered.

Mr. BAYARD said he would vote now against the amendment, as he intended to vote against a bill in any form for the restoration of the fine.

The question was then taken, and decided in the negative—yeas 17, nays 26.

The bill was then reported back to the Senate, and the amendments of the Committee of the Whole were concurred in; and the question now being, "Shall the bill be engrossed for a third reading?"

Mr. LINN demanded the yeas and nays; which were ordered; and the bill was ordered to be engrossed for a third reading.

The Senate then adjourned.

TUESDAY, February 21.

*General Jackson's Fine.*

Mr. LINN's bill to indemnify Major-General Andrew Jackson for damage sustained in the discharge of his official duty, came up as an engrossed bill, and was read a third time.

The question then being, "Shall the bill pass?"

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*Intercourse with China.*

[27TH CONG.]

Mr. DAYTON addressed the Senate for about half an hour in opposition. There were principles involved in the bill which he considered of such consequence, as to induce him to call the attention of the Senate to them before they voted for its passage. It had been urged by the friends of the bill that there was no other principle involved in it than that which had been acted on repeatedly in regard to other officers of the Government. He had looked into this matter, and found that such was not the fact. In the first place, with respect to the title, he found that the bills passed by Congress to restore fines to other officers, inflicted on them for violations of law in the performance of their duties, were all entitled acts for the relief of those individuals. In the next place, there was nothing in the bodies of those acts in the slightest degree tending to cast imputation, directly or indirectly, on the tribunals which had inflicted those fines. In these two respects, he argued at some length, that this bill differed altogether from the principle of the bills claimed as analogous cases.

After Mr. D. had delivered his views in support of this position,

The question was taken by yeas and nays; and the bill was passed, as follows:

YEAS.—Messrs. Allen, Bagby, Benton, Buchanan, Calhoun, Cuthbert, Fulton, Graham, Henderson, King, Linn, McDuffie, McRoberts, Mangum, Rives, Sevier, Smith of Connecticut, Smith of Indiana, Sprague, Sturgeon, Tallmadge, Tappan, Walker, Wilcox, Williams, Woodbury, Wright, and Young—28.

NAYS.—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clayton, Conrad, Crafts, Crittenden, Dayton, Evans, Huntington, Kerr, Merrick, Miller, Morehead, Phelps, White, and Woodbridge—20.

Mr. GRAHAM now moved to change the title to that of "A bill for the indemnity of Major General Andrew Jackson."

This motion was concurred in without a division.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, February 21.

##### *Electro and Animal Magnetism.*

On motion of Mr. KENNEDY, of Maryland, the committee took up the bill to authorize a series of experiments to be made, in order to test the merits of Morse's electro-magnetic telegraph. The bill appropriates \$30,000 to be expended under the direction of the Postmaster-General.

On motion of Mr. K., the words "Postmaster-General" were stricken out, and "Secretary of the Treasury" inserted.

Mr. CAVE JOHNSON wished to have a word to say upon this bill. As the present Congress had done much to encourage science, he did not wish to see the science of Mesmerism neglected and overlooked. He, therefore, proposed that one-half of the appropriation be given

to Mr. Fisk, to enable him to carry on experiments, as well as Professor Morse.

Mr. HOUSTON thought that Millerism should also be included in the benefits of the appropriation.

Mr. STANLY said he should have no objection to the appropriation for Mesmeric experiments, provided the gentleman from Tennessee (Mr. CAVE JOHNSON) was the subject. [A laugh.]

Mr. CAVE JOHNSON said he should have no objection, provided the gentleman from North Carolina (Mr. STANLY) was the operator. [Great laughter.]

Several gentlemen called for the reading of the amendment; and it was read by the Clerk, as follows:

*Provided*, That one-half of the said sum shall be appropriated for trying Mesmeric experiments, under the direction of the Secretary of the Treasury.

Mr. S. MASON rose to a question of order. He maintained that the amendment was not *bona fide*, and that such amendments were calculated to injure the character of the House. He appealed to the Chair to rule the amendment out of order.

The CHAIRMAN said it was not for him to judge of the motives of members in offering amendments; and he could not, therefore, undertake to pronounce the amendment not *bona fide*. Objections might be raised to it on the ground that it was not sufficiently analogous in character to the bill under consideration; but, in the opinion of the Chair, it would require a scientific analysis to determine how far the magnetism of Mesmerism was analogous to that to be employed in telegraphs. [Laughter.] He, therefore, ruled the amendment in order.

On taking the vote, the amendment was rejected—yeas 22, noes not counted.

The bill was then laid aside to be reported.

##### *Intercourse with China.*

Mr. ADAMS moved that the committee take up bill 720, for the establishment of future commercial intercourse with China.

The motion was agreed to—yeas 68, noes 53—and the bill was taken up and read.

Mr. ADAMS moved to amend the bill, by striking out the words "under the restrictions and."

Mr. MERIWETHER opposed the amendment. If he understood its effect, it would be to leave the mission without any restriction. The bill, as it came from the Committee on Foreign Affairs, placed this mission on the same footing as other missions. The Secretary of State, however, wished the whole sum placed at his own disposal and control—wished it left to him to pay as much as he pleased. He (Mr. M.) did not consider this mission to China as a matter of so much importance as had been claimed for it. He thought it would be difficult to persuade the people of that country to change their policy, give up their aversion to foreigners, and enter into commercial inter-

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course with other nations. He wished, at any rate, to have this mission placed on the same footing as other missions.

Mr. EVERETT was understood to advocate the postponement of legislation upon this subject, until it could be ascertained what the policy of China would be with respect to the diplomatic agents of foreign powers.

Mr. ADAMS said he did not think it necessary to waste the time of the House in arguing the propriety of a mission to China. The Message of the President was sufficient on that point.

Mr. HOLMES said he was one of those on the Committee of Foreign Relations who had voted to introduce this bill. In the present state of the commerce of the world, he regarded the proposed mission to China as more important than were all our other missions together. The trade of South America and Europe was fixed on an established basis. But, by the opening of intercourse with China, three hundred and twenty millions of people (hitherto shut out from the rest of the world) would be brought within the circle of commercial republics—for it was commerce that republicanized and civilized men.

Mr. McKEON said there was nothing so very peculiar in the case of China, that Congress should depart from the usual restrictions of law, which applied to diplomatic appropriations generally. He thought it would be better to take the matter quietly, and go about it in a quiet business manner. Should the bill pass as reported by the committee, it would authorize a minister at a salary of \$9,000, and \$9,000 outfit. Pass it according to the amendment of the gentleman from Massachusetts, (Mr. ADAMS,) and \$40,000 would thereby be placed at the disposal of the Executive—more than he (Mr. McK.) was willing to see placed in the hands of any President.

Mr. ADAMS called for the previous question on the passage of the bill; which was seconded by the House, and the main question ordered; and the main question being taken on the passage of the bill, it was decided in the affirmative—yeas 96, nays 59.

## IN SENATE.

WEDNESDAY, February 22.

*Assumption of State Debts.*

The resolutions introduced by Mr. WALKER on Monday last, were taken up and read, as follows:

*Resolved.* That the assumption of the debts of the States, contracted by them separately, and for local purposes, would be a palpable violation of the Constitution of the United States, a consolidation of all power in the Federal Government, and a final and total overthrow of the sovereignty of the States.

*Resolved.* That Congress having no power to assume such debts, any act attempting such assumption would be utterly null and void; that it would not be obligatory upon the States, nor could the people of the States be lawfully required

by Congress to pay the debt so assumed; nor could any taxes imposed by them for such purposes be collected; and it would be the duty of a succeeding Congress to restore the supremacy of the constitution, by the entire repeal of the act of assumption.

Mr. WALKER remarked that he did not intend to address the Senate on the subject of the resolutions. He would not consume a moment of its time; but if it met the views of Senators on both sides to permit a direct vote to be taken on them, he would content himself by simply asking for the yeas and nays on their adoption.

Mr. TALLMADGE said he did not think they had any more time to spend on these resolutions at this late period of the session; he, therefore, with a view to end the whole matter, moved to lay the resolutions on the table.

Mr. WALKER remarked that, inasmuch as it was asserted by the Senator from New York, that he made the motion with the view to put an end to the matter, he (Mr. W.) had a right to consider it a test vote, and, therefore, asked for the yeas and nays; which were ordered.

The question, then, being put on the motion to lay on the table, it was decided in the affirmative, as follows:

YEAS.—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clayton, Conrad, Crafts, Crittenden, Dayton, Evans, Graham, Henderson, Huntington, Kerr, Mangum, Merrick, Miller, Morehead, Phelps, Smith of Indiana, Sprague, Tallmadge, and Woodbridge—25.

NAYS.—Messrs. Allen, Bagby, Benton, Buchanan, Calhoun, Cuthbert, Fulton, King, Linn, McRoberts, Smith of Connecticut, Sturgeon, Tappan, Walker, Williams, Woodbury, Wright, and Young—18.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 22.

*British Construction of the Treaty of Washington.*

Mr. O. J. INGERSOLL again offered his resolution; which was in these terms:

*Resolved.* That the President be requested to communicate to this House (if not, in his opinion, improper) whatever correspondence or communication may have been received from the British Government respecting the President's construction of the late British treaty concluded at Washington, as it concerns an alleged right to visit American vessels.

Mr. WISE objected to the reception of the resolution.

Mr. O. J. INGERSOLL moved a suspension of the rules for the reception of his resolution; and on this he called for the yeas and nays, which were ordered; but, before the vote was taken, he wished an extract to be read by the Clerk from a speech delivered by Sir Robert Peel in the British Parliament on this subject, which was of infinitely more importance than any other that could be brought before the House.

The extract was in the following terms:

I rejoice that the honorable gentleman has given

me an opportunity of making some observations on the late message of the President of the United States. The sincere and earnest desire I have always entertained for the maintenance of a good understanding between this country and the United States, and the spirit in which I have always spoken of America, makes it a doubly painful duty to me to have to refer to that message, which, I am sorry to say, does not give a correct account of the negotiations relative to the right of visit.

Perhaps I may do right to confirm what the honorable gentleman has said, that there is nothing more distinct than the right of visit is from the right of search. Search is a belligerent right, and not to be exercised in time of peace, except when it has been conceded by treaty. The right of search extends not only to the vessel, but to the cargo also. The right of visit is quite distinct from this, though the two are often confounded. The right of search, with respect to American vessels, we entirely and utterly disclaim. Nay, more; if we knew that an American vessel was furnished with all the materials requisite for the slave-trade—if we knew that the decks were prepared to receive hundreds of human beings within a space in which life is almost impossible, still we should be bound to let that American vessel pass on. But the right we claim is, to know whether a vessel pretending to be American, and hoisting the American flag, be *bona fide* American.

There must be some great misunderstanding upon the subject; but, considering the importance of maintaining this right—a right not peculiar to England; considering that we are contending for a right which is the only security against fraud, against the grossest abuses by parties interested in this iniquitous traffic; considering that we are now the advocates of a principle necessary for the interests and security of all maritime nations,—it is my duty to state, in the face of the House of Commons, that the claim to the right of visitation contended for in the despatch of Lord Aberdeen has not been relinquished; that, on this subject, there was made no concession whatever; and that to the principles laid down in the despatch of Lord Aberdeen we adhere at this moment. [Cheers from both sides of the House.]

With respect to the treaty which we have entered into with the United States: in signing that treaty, we consider that we have abandoned no right of visitation. We do not understand from the United States that they entered into that treaty with any engagement from us to abandon the right of visitation, which, if not necessarily connected with the question of the slave-trade, we thought that it was a step in advance when the United States professed a readiness to despatch a naval force to the coast of Africa for the purpose of suppressing the slave-trade. We did not accept the detachment of that naval force as an equivalent for any right which we claimed; yet, still we thought that, for a great country like the United States to take that step with us on the coast of Africa, although the power of visitation is limited under the treaty in such case—although we claim no right to visit slavers, *bona fide* American, and the right is to be exercised by vessels of the United States—we thought it, I say, a step in advance towards the ultimate suppression of the slave-trade to accede to the proposition of the United States.

But in acceding to that, we have not aban-

doned our claims in the slightest degree; nor did it ever make any part of our intention, during the controversy, to abandon the right to which we lay claim in the despatch I have mentioned. [Hear, hear, hear.] We have not contented ourselves, sir, with leaving this fact to become known by a declaration in this House; but since the appearance of the President's message, we have taken an opportunity of intimating to the United States the construction we place on the treaty. [Cheers.] I trust, sir, that I have said enough to satisfy the House on this point. I trust, also, that although compelled to avow a material difference of opinion between the two Governments upon this material question, I have stated this difference of opinion with the respect which I wish to maintain towards the high authorities of the United States. [Hear, hear.]

Objections were still made; and the Clerk began to call the roll on the question of suspension of the rules, on which the yeas and nays had been ordered—great anxiety being manifested through the House in relation to the matter.

Mr. WISE rose when the Clerk had called a few names, and said, if it was the desire of the House to adopt the resolution, he would withdraw his objection.

The call was, therefore, suspended, and the resolution was adopted.

#### IN SENATE.

THURSDAY, February 23.

#### *Right of Search—The Construction of the Ashburton Treaty.*

Mr. AROHEE rose and said it would be in the recollection of the Senate, that the Senator from Missouri gave notice last evening of an inquiry which he desired to make to-day, founded upon the recent speech of Sir Robert Peel, in reference to the construction put upon the late treaty. Despatches had since been received from our minister in London, a portion of which related to this topic. He read that portion of the despatch, that the Senator from Missouri might be the better enabled to frame his inquiry.

Mr. A. read as follows:

*Extract of a despatch from Mr. Everett to Mr. Webster, dated London, February 3, 1848.*

"Parliament was opened by commission yesterday. The Queen's speech, and the very interesting debates upon the addresses in the two Houses, will be found in the papers of to-day, which accompany this despatch. I attended the debate in the House of Commons. You can judge of the surprise with which I listened to the remarks of Sir Robert Peel on the alleged fact that Lord Aberdeen's letter to me of the 20th of December, 1841, remained to this day "unacknowledged and unanswered." It was acknowledged by me in a note dated two days afterwards, (28d December, 1841,) which, however unimportant, was transmitted to Mr. Fox by Lord Aberdeen, and afterwards communicated to Parliament, and printed.

"In this note of acknowledgment, I informed Lord Aberdeen that I should avail myself of an early opportunity of making some remarks on the

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very important topics treated in this letter. I pursued this course of an immediate acknowledgment of the receipt of Lord Aberdeen's note, with notice of a purpose of replying, in due season, to its contents; because being just arrived at my post, I had not received the instructions which you had informed me I might soon expect on this topic, and which, as Lord Aberdeen's note modified the ground and disclaimed the language of its predecessor, it was my duty to await. Such instructions I should no doubt, in due time, have received; but, on the 27th of December, Lord Aberdeen informed me that the special mission had been determined on; that Lord Ashburton would go to America, with full power to settle every point in discussion, including what was called the right of search, which he deemed the most difficult; and expressed the opinion that it would be hardly worth while for us to continue the correspondence on matters in dispute between the two countries; and though he was willing to consider and reply to any statement I might think proper to make on any subject pending the negotiation that might take place at Washington, he supposed no benefit would result from a simultaneous discussion here.

"Such was Lord Aberdeen's observations, as reported by me in my despatch of December 31.

"The negotiation took place; and a mode of dealing with and settling the question was happily agreed upon, which made it unnecessary to resume the discussion, so long continued, upon the subject. In fact, from the moment the special mission was announced, I considered the discussion as at an end; and as little likely to be resumed, in reference to search and visitation, as the boundary or the 'Caroline.'"

He merely desired to say to the Senator from Missouri, that he was now prepared to go into any explanation which the Senator might desire, of the views of this Government in relation to this matter. The honorable Senator, however, would understand, that he was not pressing him for the motion; the Senator would, of course, choose his own time for making it.

Mr. BENTON said he was quite prepared with his inquiry. It was already "cut and dried."

Mr. ARCHER. I know that is the habit of the honorable Senator.

The bill making appropriations for the naval service for the half calendar year of 1843, and the fiscal year of 1844, having been engrossed, was read the third time and passed; and the question now being on the adoption of the title to the bill,

Mr. BENTON rose and moved to recommit the bill, with instructions to strike out so much of the appropriations as related to the African squadron.

The CHAIR remarked that the bill was now passed, and the question was merely on the title; and it would, therefore, be necessary to reconsider the vote on the passage of the bill before the motion to recommit could be considered.

The motion was then made to reconsider, and carried in the affirmative; when

Mr. BENTON remarked that the point of inquiry was, whether the Government of the

United States had received any intimation of a different construction having been put upon the treaty by Great Britain in relation to the right of visit, from that given to it by this Government? As to whether the despatch of Lord Aberdeen had been replied to or not, although it might be a point of some moment between the parties concerned, it was not, however, the point to which he directed his inquiry. There did not appear to be, in the despatch of the American minister from London, (from which Mr. B. here read an extract,) a single word upon the subject of the construction given to the treaty by the British Government in reference to the right of visitation and search. This was the point of inquiry which he desired to make.

Mr. ARCHER observed that, as the honorable Senator had signified his intention to make an inquiry, without anticipating the nature of that inquiry, and, inasmuch as a despatch had been since received, he (Mr. A.) deemed it but fair and proper that the attention of the Senator should be called to that despatch, that he might be the better able to shape his inquiry.

Mr. BENTON said he would read from an English newspaper published at Liverpool, an extract, purporting to be a speech of Sir Robert Peel, in which it was declared that there was no relinquishment, in his opinion, of the right of visitation of American ships upon the coast of Africa; that the late treaty conceded nothing upon this point; and that Great Britain would adhere to the principle which she had assumed in reference to that subject.

Mr. ARCHER said the honorable Senator from Missouri would recollect that it had not been assumed by the Executive of the United States, in the Message communicating the treaty to the Senate at the last session of Congress, that Great Britain had renounced her right of visitation. As to the right of search, that had been renounced, according to the distinct declaration of Lord Aberdeen.

[Mr. A. here read from the President's Message.]

He asked the particular attention of the Senator to the passage. And he asked the honorable Senator how he could affect to suppose that it was ever contemplated, on the part of the executive Government of the United States, that there had been any renouncement of the right of visitation on the part of the British Government? How was that gentleman, with the Message of the President before him, authorized to suppose that there had ever been any such expression on the part of this Government, or of renunciation on the part of the British? Not only was this never contemplated, or asserted upon the formation of the treaty, but it was expressly stated, in more than one part of the Message, that the keeping of a squadron upon the coast of Africa was, of itself, to put an end to the occasion for the right of visitation. It was not possible to obtain from either party a direct and explicit renunciation

of this right; and it was not considered advisable in such case that the Government of the United States, (which, as well as the British negotiator, had earnestly at heart to adjust, as far as practicable, all the points in dispute,) because they could not come to an arrangement which would be absolutely satisfactory upon this point, should, as the Senator seemed to imply by his remarks, not attempt to do any thing. A renunciation of the right of visit not having been obtained, it was thought advisable to obtain what was considered the next best thing. And, accordingly, an arrangement was made which tended to remove the necessity for the exercise of that right. We had as many as 80 guns dispersed in small vessels upon the coast of Africa; and he put it to the Senator from Missouri to say whether there was a probability that there would be any occasion for the exercise of that right. Although Great Britain might be unwilling to abandon the right; although we could not extinguish the claim of Great Britain to the right of visitation, the exercise of which was so obnoxious to us—it was highly improbable that any occasion would arise between the two Governments for the exercise of the right of visit, or for any collision upon that subject.

Mr. BEXFORD observed, that the extract read from his place by the chairman of the Committee on Foreign Affairs, (Mr. AUCHINCLOSS,) only referred to a subordinate point of Sir Robert Peel's letter—that of the neglect to answer Lord Ashburton's despatch of December, 1841. The extract read, only referred to that point; while his inquiry was wholly directed to the question of difference or no difference on the essential point of the meaning of the treaty. Sir Robert Peel declares that difference, and professes himself doubly pained to say that the President's Message is not correct. He says the right of visitation is not given up—that England will not concede it: the President, in his Message of last December, informs the two Houses that search, visit, and visitation, are all obviated by the treaty; and congratulates the country upon it. This is the point of difference between the two Governments; and it is vital! It is a question of treaty or no treaty! For, if the parties misunderstand it on this great point, there is an end of concord, and dissension must immediately arise.

The Senator from Virginia read from the President's Message of August last. Sir Robert Peel was remarking upon the Message of December last; and that Message shows the difference which the British minister announces. The President, in that Message, states the mischief, to wit: that our vessels had been subjected to visitation (as the British called it) in the African seas; that this visitation was only search in different words, and in a new form; and then refers to the treaty as putting an end to all pretence for this practice, call it what you may, in time to come. The evil of this visitation is, then, according to the President,

now terminated. According to Sir Robert Peel, it is not terminated. And here is the difference—and a serious one.

Mr. B. would not go into the question of right or wrong, or extend the basis of the discussion, by opening questions of maritime rights. He would confine himself to the question he had made—that of a difference in the meaning of the treaty. If there is a difference, it is necessary to understand it, and to settle it. It must be settled; and the sooner the better. The declaration of the British minister declares a difference; and that is a point on which each Government judges for itself. They have no common superior to judge between them. The declaration of a difference makes a difference; and it is immaterial, so far as consequences are concerned, which is right or which is wrong. In all national, as in all individual disputes, one party must be in the wrong; but that does not prevent a fight or a war. The party in the wrong may fight; and from the formal manner in which the British minister has stated this difference, it is very clear that he intends that our vessels shall be searched in the African seas hereafter, just as heretofore. What then? Shall our Government go on blindfold with the treaty, until the case occurs—until an American vessel is searched by a British cruiser, and then negotiate, or fight? Shall the Government do this—and it is the fate of weakness to wait for events, instead of guiding them—or shall it stop, and clear up the difference at once? He (Mr. B.) was in favor of stopping all action under this clause of the treaty, until the two Governments agreed as to its meaning.

Mr. B. said we now had a practical commentary upon the improvidence of entangling ourselves with foreign alliances. Washington warned us against it: for fifty years we have kept clear of such alliances: in August last, we entered into one of these alliances; and now, in February, we have a difference as to the meaning of an article in this alliance—a difference which cannot go to a present result, without involving the honor or the peace of the country.

Mr. B. said there was nobody to celebrate the gigantic intellect of General Jackson; yet, in the answer which he directed Mr. Forsyth to give to Sir Charles Vaughan, in October, 1834, in relation to this very point of a convention with England for the suppression of the slave-trade, there was wisdom, which, compared to the wisdom which offered this convention, was as the pyramid of Cheops is to a grain of mustard. President Jackson, at that time, positively refused to enter into any convention on the subject. He directed him to say to Sir Charles Vaughan, that the Government of the United States was "definitely formed not to become a party to any convention on the subject of the slave-trade." This was the answer of General Jackson. It is the American answer; and it put an end to these propositions

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for a convention until the present Administration came into power.

Mr. B. said he did not go into the question of identity between search and visitation. The President treated them as identical; Sir R. Peel as different. He (Mr. B.) did not entertain the question. It was clear there was a difference as to the execution of the treaty; and whether the ship was to be stopped on the high seas for the purpose of being searched, as for the purpose of being visited, a preliminary objection arose, and that was, the arrest of the ship itself! The arrest of the ship on the high seas, like the arrest of an individual on the high road, was itself an act incompatible with freedom; and in the case of English naval officers, (to use the language of the *London Times*), if there was any doubt in the case, they took the trick. This was the language of the *Times*, in February last, in relation to impressment; and it will apply in all cases where they have a right to arrest an American vessel: they will take the trick, if they have doubts; and doubts can easily be raised, where he that raises them is the authority to solve them, and has an interest in solving them all in their own favor. Stopping a vessel on the high seas, Mr. B. understood to be firing ahead of her, and over her, and then through her, if she does not stop. This was a rude process, even if for an innocent purpose; and he was against subjecting American vessels to be so stopped by British cruisers.

Mr. B. concluded his remarks by reading the passages from Sir Robert Peel's speech, and the President's Message, which showed the difference between the two Governments in relation to the meaning of the treaty; and which must lead to collision between the two countries, if not prevented by an immediate understanding.

Mr. ARCHER remarked that he had cause to congratulate himself, and the Senate, that it would not be necessary to reply to all the discursive observations of the Senator from Missouri; for the time of the Senate would not be much delayed by the few words he should find sufficient to prove that there was no such difference of opinion between Sir Robert Peel and the President of the United States as the Senator supposes; and if this should be demonstrable, the Senator's arguments must of course fall to the ground. The extracts he should now read from the President's Messages, and from the speech of Sir Robert Peel, would justify him in asserting that there was no contrariety of opinion between them on the subject of the treaty. Sir Robert Peel asserted nothing new on the part of the British Government; and what he did assert had been fully admitted by the President of the United States. He (Mr. A.) had told the Senator that it was because no answer could be obtained from the British Government during the progress of the negotiations upon that particular point, and because the British negotiator was not instructed to yield all we desired, that this Government

thought it expedient to do what was considered the best thing—and that was to render it improbable that those collisions which had grown out of the exercise of the right of visitation should again occur.

It was not because the two Governments differed; it was because they agreed that it was considered expedient, on the part of this Government, to take the course it did. The views of this Government and of the Government of Great Britain not only agreed in themselves, but they agreed also with the views of the Senator from Missouri himself, if he would sincerely acknowledge them; but he greatly feared that the honorable Senator would renounce his own views rather than agree with the Executive. The Senator had said that the President had intimated, in both his Messages, that he regarded the right of search and the right of visitation equivalent to one another; and that it was because the President so regarded them, that he had been induced to procure the adoption of the treaty. Why, he would have procured the renunciation of the right of visitation also, if it had been in his power to do so; but, as that could not be obtained, an effort had been made to prevent the practical operation of that right, and, consequently, to prevent all collision that might possibly grow out of its exercise.

Mr. BROWN said the real question was the disagreement between this Government and that of Great Britain as to the true interpretation of the treaty. To show that there was a difference, he would first read the language of the President of the United States, and then that of Sir Robert Peel. The President of the United States, in his annual Message to Congress at the beginning of this session, says, (and it is to that Message Sir Robert Peel alludes:)

"In the enforcement of the laws and treaty stipulations of Great Britain, a practice had threatened to grow up, on the part of its cruisers, of subjecting to visitation ships sailing under the American flag; which, while it seriously involved our maritime rights, would subject to vexation a branch of our trade which was daily increasing, and which required the fostering care of the Government. And although Lord Aberdeen, in his correspondence with the American envoys, at London, expressly disclaimed all right to detain an American ship on the high seas, even if found with a cargo of slaves on board, and restricted the British pretension to a mere claim to visit and inquire; yet it could not well be discerned by the Executive of the United States how such visit and inquiry could be made without detention on the voyage, and consequent interruption to the trade. It was regarded as the right of search, presented only in a new form, and expressed in different words."

"From this it will be seen that the ground assumed in the message has been fully maintained, at the same time that the stipulations of the treaty of Ghent are to be carried out in good faith by the two countries, and that all pretence is removed for



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interference with our commerce, for any purpose whatever, by a foreign Government."

He should now turn to what Sir Robert Peel said in his late speech in Parliament:

"I rejoice that the honorable gentleman has given me an opportunity of making some observations on the late message of the President of the United States. The sincere and earnest desire I have always entertained for the maintenance of a good understanding between this country and the United States, and the spirit in which I have always spoken of America, makes it a doubly painful duty to me to have to refer to that message; which I am sorry to say, does not give a correct account of the negotiations relative to the right of visit."

He then goes on to state the difference between the right of search and the right of visitation, and then says:

"I trust, sir, that I have said enough to satisfy the House on this point. I trust, also, that although compelled to avow a material difference of opinion between the two Governments upon this material question, I have stated this difference of opinion with the respect which I wish to maintain towards the high authorities of the United States."

There is another part in which he declares expressly that the right of visitation, claimed in Lord Aberdeen's despatch, has not been relinquished, and will not be relinquished. Now, here is palpable evidence that there is a difference of opinion as to the construction of the treaty, between Sir Robt. Peel and the Executive of the United States. That was the point at issue.

Mr. AROHER observed, that all the speech said was, that the British Government had not renounced the right of visitation contended for in Lord Aberdeen's despatch; and the President of the United States says it was because the British Government could not renounce the right of visitation that the arrangement became necessary for placing a squadron in the African seas to carry out our own laws, and supersede the necessity for the exercise of the right of visitation adhered to by the British Government. There is no difference of opinion in Sir Robert Peel's views and those of the President of the United States, as to the adherence of the British Government to the right of visitation.

Mr. ALLEN said, as far as he himself was concerned, he did not intend to vote for a dollar of appropriation in furtherance of the treaty—not even to pay the \$300,000 to the States. He would not do it, because he considered the treaty worse than a war. But he would not go into the character of the treaty now. Other gentlemen viewed it in a different light—gentlemen of more experience, and who had better means of judging, perhaps. This, however, was his view; and he should continue to act upon it. He desired to know what it was that we had received as compensation for sending out those 80 guns, if there was not to be at least a suspension of the right to visit our

vessels. The President manifestly considered that there was to be a suspension of that right, when he penned his Message to Congress; and he asked, if it was true that we had gained so much in reference to the right of visitation upon the coast of Africa, what had they gained upon the general principle? The British still assert that they have a right to visit any vessel for any purpose whatever. They were about to pay half a million of dollars under what they supposed to be, some time ago, a compact by which peace had been purchased; and before Congress had had an opportunity to execute its part of the contract, by appropriating the money, it was discovered to have been no guarantee of peace at all. The proper time to meet this question was the present; and he was prepared, if any one would introduce a bill for that purpose, to instruct the President to take possession of every foot of the disputed territory. If the construction put upon the treaty by Sir Robert Peel was right, there were still more pregnant consequences to grow out of it; because it showed a disposition on the part of the British Government to promote a quarrel, by holding up our Government to the world as putting one construction upon the treaty, whilst they hold another, and a different one.

Mr. EVANS stated that, in rising, it was not his purpose to prolong the discussion, but to entreat the Senate to put an end to a debate which, to say the least of it, was premature, and wholly out of place. If the Senator from Missouri, and those who concur with him in hostile feelings to the treaty, would but have patience, a bill from the other House would, in a day or two, come before the Senate, on which they could bring up the subject, and discuss it to their heart's content—he meant the bill making provision for carrying out the treaty. How much time to-day had been wasted in unprofitable discussion, leading to no practical result? Enough, he would venture to say, to pass forty bills now awaiting the action of Congress. The Senator from Missouri has moved to recommit the bill, with instructions to strike out all appropriations for the African squadron. Now, what use would it be for the committee to take into consideration what was not in the bill at all?

There was not a word in it about the African squadron. And, although he would not pretend to say that some part of the money appropriated in the bill was not to be applied to the expenses of the squadron to be kept on the coast of Africa for the protection of our commerce and shipping there, and in furtherance of the provisions of the treaty; yet he would say that it would make no difference as to the amount of the appropriations whether any portion of the navy was to be kept on that station or not.

Mr. CURTIS did not consider the information furnished by the despatch from our minister at London, nor the speech of Sir Robert Peel, sufficient to warrant immediate action on

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the subject. In the various reports of that speech, there were evident obscurities, leaving it uncertain if the remarks of Sir Robert Peel did not exclusively relate to the general right of visitation, and not to the visitation on the coast of Africa in reference to the slave-trade.

Mr. CALHOUN said that it was impossible for any man to read the treaty, and say that the right of visitation was not superseded by the provisions of that treaty. It was superseded; and he had so treated it in his speech on the treaty; and no man could read that treaty without being thus satisfied that each party was to take supervision of its own vessels. When they looked at the object of the negotiation on this point, no doubt could be entertained. What was the immediate object? Was it not this—to enter into stipulations with Great Britain, such as she had made with all European powers? He believed they had the supervision, not only of their own vessels, but of all European vessels. What was the result of this state of things? The result was, that our flag was used by all persons engaged in the slave-trade. Great Britain then threw herself on the five European powers. She wished to make it a question, not of municipal regulation, but of international law. All the great Christian powers agreed to accept it but this country alone.

Mr. KING said he did not pretend to say that a newspaper report of Sir Robert Peel's speech could be taken as a correct version of the speech itself. There were evidently obscurities in the version read by the Senator from South Carolina. He (Mr. K.) had seen the version in the London Times, and he could not help saying that it was more likely to be correct; but, in that version, it appeared to him that Sir Robert Peel took still stronger ground than that assumed in the other. It bore the impression that he maintained, not only the British right of visitation in the general sense, but in a sense which would extend it to the coast of Africa. If it should turn out that such was his meaning, it would be a subject of infinite surprise to him; for he would consider it a palpable violation of the treaty. We had agreed to do what, as an independent nation, we were bound to do—to carry into execution our own laws; and, therefore, there remained no longer a pretence for England to persevere in her claim of a right of visitation. Had he not considered this point clearly settled, he never would have voted against striking out that article in the treaty. He firmly relied on its being a suspension of the British claim, and that it was so stipulated by Lord Ashburton. He was satisfied of this, because he so understood it from Lord Ashburton himself. There was a bare possibility that the new state of circumstances in England, and in the intoxication resulting from recent successes, Sir Robert Peel, in his speech, had given way to the national excitement, and expressed himself in a manner not justified by the original understanding of the treaty.

Mr. BENTON said the discussion had taken a turn which he did not expect—that of a question as to the correctness of the report of Sir Robert Peel's speech. True, there were the usual variations in the details of the reports, but they agreed in the main point; and all America and all Europe must see that we had received a slap in the face—that the President's Message was flatly contradicted—and principles avowed from which collisions must arise. The difference of opinion amounted to treaty or no treaty on this point! The difference between the two Governments nullified this part of the treaty; and he thought it the part of common prudence to stop now, and remove the difference, before collision resulted. The treaty was ratified in this chamber, upon the President's view of it. Senators voted upon that view, as they now declare, and as we know; and now, if there shall be any attempt on the part of the Administration to equivocate, and to reconcile the President's Message to Sir Robert Peel's speech, by making the Message yield to the speech, it will be a fraud upon the Senators who voted for the ratification.

The question was then taken on Mr. BENTON's proposition, and decided in the negative, as follows:

YEAS.—Messrs. Allen, Benton, Linn, and Smith of Connecticut—4.

NAYS.—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Calhoun, Choate, Clayton, Conrad, Crafts, Crittenden, Cuthbert, Dayton, Evans, Fulton, Henderson, Huntington, Kerr, King, McDuffie, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Rives, Sevier, Smith of Indiana, Sprague, Tallmadge, Tappan, White, Wilcox, Woodbridge, and Woodbury—36.

## HOUSE OF REPRESENTATIVES.

THURSDAY, February 23.

*Electro-Magnetic Telegraph.*

On motion by Mr. J. P. KENNEDY, the bill making appropriations to test the value of Morse's electro-magnetic telegraph, was taken up, and, under the operation of the previous question, passed—ayes 89, noes 83.

## IN SENATE.

SATURDAY, February 25.

*The Bankrupt Act.*

The unfinished business of yesterday was then resumed; being the further consideration, as in Committee of the Whole, of the House bill for the repeal of the bankrupt act.

Mr. BENTON moved to strike out the proviso, which is in the following words:

*Provided*, That this act shall not affect any case or proceeding in bankruptcy commenced before the passage of this act, or any pains, penalties, or forfeitures incurred under the said act, but every such proceeding may be continued to its final consummation, in like manner as if this act had not been passed.

Mr. BERRIEN would not question the decision of the Senate on the Judiciary Committee's amendment; but he did hope the proviso in the House bill would not be stricken out. To all the class of cases protected by this proviso, its excision would be the most manifest injustice.

Mr. BENTON proposed the same proviso as a substitute, which he had offered upon a former occasion upon the Senate's bill, making the pending cases subject to constitutional restrictions, and requiring the consent of a majority in value and number of the creditors necessary for the discharge of the bankrupts. On moving this amendment, he urged the same arguments in its favor which he had used on a former occasion alluded to.

Mr. BUCHANAN said he had not intended to trouble the Senate with a single word on the bankrupt bill, at this late period of the session; but as he had determined to vote against the amendment proposed by the Senator from Missouri, (Mr. BENTON,) and would differ from some of his most valued political friends on this question, he felt it to be a duty which he owed both to them and himself to make a very few observations on the subject. Should the amendment prevail, and the proviso be stricken from the bill, it would deprive all those bankrupts of the benefit of the law whose cases were now pending, and who had not yet obtained their certificates of discharge.

He should be extremely sorry if his constitutional opinions would deprive him of the power of voting in favor of this proviso. In what condition would both the bankrupts whose cases were now pending, and their creditors, be left, in case it should not be retained?

The first class of desperate insolvents or bankrupts, who stood ready and eager to take the benefit of the law immediately after its passage, had already passed through the mill, and had been discharged from their debts. There were many individuals who had been crushed to the earth, and whose circumstances had been rendered desperate, by the discharge of their debtors and the consequent loss of debts honestly due to them, under this unjust and impolitic law. It was such individuals who would chiefly suffer, should the amendment be adopted. They had struggled with misfortune as long as they could; and had finally, at the last hour, applied for the benefits of the bankrupt law. The proceedings in their cases were now in different stages of their progress; and he should consider it unequal, unfeeling, and unjust to deprive the courts of the power of bringing them to a conclusion. It would be an extreme case, indeed, which could justify Congress in declaring, after an individual had put himself to the trouble and the expense of instituting any proceedings under the faith of their own laws, that he should be arrested midway; and that, too, when he could not by possibility be restored to his former condition.

But again: There was one State of the

Union (he referred to the State of Missouri) where the district judge had decided the bankrupt law to be unconstitutional, and had refused to discharge any of the applicants for the benefit of its provisions. Strike out this proviso; and then, whilst debtors in all the other States had been discharged under the provision of the law, no debtor in Missouri had ever enjoyed, or could enjoy, its benefit.

Again: He asked what would become of the property of bankrupts now in the hands of their assignees, or under the custody of the law. This would present a scene of confusion worse confounded. Strike out the proviso, and no distribution of it could take place among their creditors; because the law under whose provisions it would have been made, had ceased to exist. This would lead to great injustice and endless litigation.

In view of these circumstances, if he even entertained serious doubts of the constitutionality of the bankrupt law, he would suffer these doubts to operate in favor of retaining the proviso, and would leave it to the Supreme Court to decide the constitutional question in the last resort. Nothing but a clear conviction that the law was a violation of the constitution, could induce him to sanction all these evils.

He considered that it would be a very narrow construction, indeed, to confine our power over the subject of bankruptcies, which had been conferred in the broadest and most general terms, to the passage of just such a bankrupt law as existed in England at the date of the Federal Constitution. All the lights of experience, and all the improvements in the science of legislation, must then be disregarded; and while the world was in a state of constant progression, we must make a dead stand at the point where we found the English bankrupt law half a century ago. Surely the framers of the constitution never intended any such absurdity. For his own part, he firmly believed that no bankrupt law, based upon the English mode, could ever exist for any length of time in this country. It would always destroy itself, after a brief experience. Such a law was not applicable to a country of the vast extent of our own, where the Federal judicial tribunals were at such remote distances from each other, and when it was acknowledged that Congress did not possess the power of conferring jurisdiction in cases of bankruptcy on the State courts. If they were ever to have a permanent and beneficial bankrupt system, they must look to other models than the English. Fortunately, under the decision of the Supreme Court, each State now possesses the unquestionable power of passing bankrupt laws which will relieve its own citizens from the obligation of debts contracted with other citizens of the same State subsequent to the passage of such laws. Nay, more: a discharge under a State bankrupt law is valid even against the citizens of other States, or foreigners, who

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may accept a dividend of the debtor's effects; and this will always be acceptable in cases where any considerable dividend exists. Several of the States now have such bankrupt laws. But enough, and more than enough of this.

The present law was said to be unconstitutional, because it was an insolvent, and not a bankrupt law; and that it applied, not only to traders, but to all other persons. But it would be extremely difficult to draw any line of distinction between insolvency and bankruptcy. Both signified the inability of a debtor to pay his debts. This was the meaning of both terms, in the abstract. There was this difference between a bankrupt law and an insolvent law—that, whilst the latter discharged the person of the debtor only, the former discharged both the debtor and the debt. Bankruptcy was a general term: and even in England, although nominally none but traders were entitled to the benefit of the bankrupt laws; yet, in reality, these laws had been extended, long before the adoption of the Federal Constitution, to many, very many persons, who could not, with any propriety, be denominated traders. Different acts of Parliament, and the most liberal judicial construction of the term "*traders*," had extended their provisions to almost every class of the community. He might cite numerous instances to prove this assertion, if time would permit, and if they were not familiar to every Senator. The policy of England had always been to extend still further and further the operation of their bankrupt laws to new classes of individuals. Whilst, therefore, he would be utterly opposed to the passage of any such bankrupt law for this country, he could not regard such a law as a violation of the constitution, merely because its benefits or its injuries were not confined to persons who might technically and appropriately be called traders. The power conferred upon Congress by the constitution was not limited to any class of persons, but extended to the whole subject of bankruptcies; and wherever bankruptcy existed—whether among merchants, or farmers, or tradesmen—Congress might subject them to the operation of a bankrupt law.

But it had also been contended that this law was unconstitutional, because it embraced cases of voluntary bankruptcy. Now, it was perfectly well known to every person acquainted with the history and operation of the English bankrupt law, that voluntary bankruptcy had existed in that country in fact, though not in form, for more than a century before the act of 6th George IV.; and this act did no more than to recognize a practice which had long prevailed. Insolvent debtors in England, before the passage of this act, were in the constant practice of concerting with some one of their creditors to commit an act of bankruptcy, who was thereupon to sue out a com-

mission of bankruptcy. It was very true that, if this concert were established, the commission would be avoided. But, in the nature of things, it was almost impossible to prove the fact; and, at last, the statute of George IV. expressly legalized such a proceeding. A debtor might now make a declaration of his insolvency in the prescribed form, and this was an act of bankruptcy; and it was expressly enacted "that the bankrupt, and any creditor, or other person, concerting such a declaration shall not invalidate the commission." Here, then, was voluntary bankruptcy, to the same extent which it now existed under our present law. The difference between them was in form, not in fact. In both cases, the bankruptcy was equally voluntary; and in both, the debtor chose his own time to make his application. He could not, then, say that our law was unconstitutional, because it recognized voluntary bankruptcy.

Neither could he agree with the Senator from Missouri, that the law was unconstitutional because it did not provide that, in order to procure his discharge, the bankrupt must obtain the consent of a majority of his creditors in number and value. He agreed entirely with him, that it would be unwise and inexpedient to pass a bankrupt law without such a provision; but that it would be unconstitutional, was altogether a different question. A bankrupt law was a law to discharge an insolvent debtor from his debts, on the condition that he fairly and honestly surrendered all his property for the benefit of his creditors. The mode and the manner of this discharge must necessarily be left to the discretion of Congress. These must necessarily vary, according to the varying opinions of the Legislature. In England, formerly, four-fifths in number and value of the creditors must have consented. It was now reduced to three-fifths; and the prevailing opinion, even there, now seemed to be, that it would promote the interest both of the debtor and the creditor, not to require the assent of any portion of the creditors to the debtor's discharge. Under our old bankrupt law of 1800, two-thirds in number and value of the creditors were required to consent. The Senator from Missouri would now be satisfied with a majority. This was a mere incidental question, in passing any bankrupt law, which did not enter into its essence. And he could not say that such a law would not be a bankrupt law under the constitution; although it might not require the consent of any portion of the bankrupt's creditors to obtain the debtor's discharge.

Whilst every feeling of his heart was in favor of relieving those unfortunate debtors whose property had already been removed from their own control, and placed in the hands of assignees, and who had incurred the trouble and expense of commencing proceedings, he was truly rejoiced that no

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*Right of Search Question.*

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constitutional barrier interposed to prevent him from performing an act of humanity and justice.

He would suggest another consideration: he, in common with his political friends, was anxious that this law should be repealed before the close of the present session; that it should no longer be a blot upon our statute-book; that it should no longer produce the injustice, iniquity, and fraud which had startled the minds of a vast majority of the American people, and caused them to demand its repeal. If the proviso from the present bill were stricken out, and it were sent back to the House thus amended, the probability was, that it would be lost altogether, and that the law would neither be amended nor repealed. Was it not wiser, then, for Senators to make the trifling concession of suffering those who had already applied for its benefits to obtain their discharge, than to leave the law in full force for another year?

The question was then taken on Mr. Benton's amendment, and decided in the negative: so the motion to strike out the proviso did not prevail.

The bill was then passed in the form in which it came from the House, without any amendment, as follows:

YEAS.—Messrs. Allen, Archer, Bagby, Bayard, Buchanan, Calhoun, Crafts, Crittenden, Cuthbert, Dayton, Fulton, Graham, Huntington, King, Linn, McDuffie, McRoberts, Mangum, Merrick, Morehead, Phelps, Rives, Sevier, Sprague, Sturgeon, Tappan, Walker, Wilcox, Williams, Woodbury, Wright, and Young—32.

NAYS.—Messrs. Barrow, Bates, Berrien, Choate, Clayton, Evans, Kerr, Miller, Porter, Smith, of Indiana, Tallmadge, White, and Woodbridge—13.

#### HOUSE OF REPRESENTATIVES.

MONDAY, February 27.

#### *Right of Search Question.*

The following Message was received from the President of the U. States, in reply to a resolution of the House of the 22d instant, communicating a report from the Secretary of State on the subject of the claim set up by the British Government to visit American vessels, together with the correspondence between Lord Aberdeen and Mr. Everett on the subject:

WASHINGTON, February 27, 1843.

#### *To the House of Representatives:*

In compliance with the resolution of the House of Representatives of the 22d instant, requesting me to communicate to the House "whatever correspondence or communication may have been received from the British Government respecting the President's construction of the late British treaty concluded at Washington, as it concerns an alleged right to visit American vessels," I herewith transmit a report made to me by the Secretary of State.

I have also thought proper to communicate copies of Lord Aberdeen's letter of 20th December,

1841, to Mr. Everett; Mr. Everett's letter of the 23d December, in reply thereto; and extracts from several letters of Mr. Everett to the Secretary of State.

I cannot forego the expression of my regret at the apparent purport of a part of Lord Aberdeen's despatch to Mr. Fox. I had cherished the hope that all possibility of misunderstanding as to the true construction of the 8th article of the treaty lately concluded between Great Britain and the United States, was precluded by the plain and well-weighed language in which it is expressed. The desire of both Governments is to put an end, as speedily as possible, to the slave-trade; and that desire, I need scarcely add, is as strongly and as sincerely felt by the United States as it can be by Great Britain. Yet it must not be forgotten that the trade, though now universally reprobated, was, up to a late period, prosecuted by all who chose to engage in it; and there were unfortunately but very few Christian powers whose subjects were not permitted, and even encouraged, to share in the profits of what was regarded as a perfectly legitimate commerce. It originated at a period long before the United States had become independent; and was carried on within our borders, in opposition to the most earnest remonstrances and expostulations of some of the colonies in which it was most actively prosecuted. Those engaged in it were as little liable to inquiry or interruption as any others. Its character, thus fixed by common consent and general practice, could only be changed by the positive assent of each and every nation, expressed either in the form of municipal law or conventional arrangement. The United States led the way in efforts to suppress it. They claimed no right to dictate to others, but they resolved, without waiting for the co-operation of other powers, to prohibit it to their own citizens, and to visit its perpetration by them with condign punishment. I may safely affirm that it never occurred to this Government that any new maritime right accrued to it from the position it had thus assumed in regard to the slave-trade. If, before our law for its suppression, the flag of every nation might traverse the ocean unquestioned by our cruisers, this freedom was not, in our opinion, in the least abridged by our municipal legislation.

Any other doctrine, it is plain, would subject to any arbitrary and ever-varying system of maritime police, adopted at will by the great naval power for the time being, the trade of the world in any places or in any articles which such power might see fit to prohibit to its own subjects or citizens. A principle of this kind could scarcely be acknowledged, without subjecting commerce to the risk of constant and harassing vexations.

The attempt to justify such a pretension from the right to visit and detain ships upon reasonable suspicion of piracy, would deservedly be exposed to universal condemnation; since it would be an attempt to convert an established rule of maritime law, incorporated as a principle into the international code by the consent of all nations, into a rule and principle adopted by a single nation, and enforced only by its assumed authority. To seize and detain a ship upon suspicion of piracy, with probable cause and in good faith, affords no just ground either for complaint on the part of a nation whose flag she bears, or claim of indemnity on the part of the owner. The universal law sanc-

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*Lieutenant Fremont's Expedition to the Rocky Mountains.*

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tions, and the common good requires, the existence of such a rule. The right, under such circumstances, not only to visit and detain, but to search a ship, is a perfect right, and involves neither responsibility nor indemnity. But, with this single exception, no nation has, in time of peace, any authority to detain the ships of another upon the high seas, on any pretext whatever, beyond the limits of the territorial jurisdiction. And such, I am happy to find, is substantially the doctrine of Great Britain herself, in her most recent official declarations, and even in those now communicated to the House. These declarations may well lead us to doubt whether the apparent difference between the two Governments is not rather one of definition than of principle. Not only is the right of search, properly so called, disclaimed by Great Britain; but even that of mere visit and inquiry is asserted with qualifications inconsistent with the idea of a perfect right.

In the despatch of Lord Aberdeen to Mr. Everett, of the 20th of December, 1841, as also in that just received by the British minister in this country, made to Mr. Fox, his lordship declares that if, in spite of all the precaution which shall be used to prevent such occurrences, an American ship, by reason of any visit or detention by a British cruiser, "should suffer loss and injury, it would be followed by prompt and ample remuneration;" and in order to make more manifest her intentions in this respect, Lord Aberdeen, in the despatch of the 20th of December, makes known to Mr. Everett the nature of the instructions given to the British cruisers. These are such as, if faithfully observed, would enable the British Government to approximate the standard of a fair indemnity. That Government has, in several cases, fulfilled her promises in this particular, by making adequate reparation for damage done to our commerce. It seems obvious to remark, that a right which is only to be exercised under such restrictions and precautions, and risk, in case of any assignable damage, to be followed by the consequences of a trespass, can scarcely be considered any thing more than a privilege asked for, and either conceded or withheld on the usual principles of international comity.

The principles laid down in Lord Aberdeen's despatches, and the assurances of indemnity therein held out, although the utmost reliance was placed on the good faith of the British Government, were not regarded by the Executive as a sufficient security against the abuses which Lord Aberdeen admitted might arise in even the most cautious and moderate exercise of their new maritime police; and, therefore, in my message at the opening of the last session, I set forth the views entertained by the Executive on this subject, and substantially affirmed both our inclination and ability to enforce our own laws, protect our flag from abuse, and acquit ourselves of all our duties and obligations on the high seas. In view of these assertions, the treaty of Washington was negotiated; and upon consultation with the British negotiator as to the quantum of force necessary to be employed, in order to attain these objects, the result to which the most deliberate estimate led was embodied in the 8th article of the treaty.

Such were my views at the time of negotiating that treaty, and such, in my opinion, is its plain and fair interpretation. I regarded the 8th article as removing all possible pretext, on the ground of

mere necessity, to visit and detain our ships upon the African coast, because of any alleged abuse of our flag by slave-traders of other nations. We had taken upon ourselves the burden of preventing any such abuse, by stipulating to furnish an armed force regarded by both the high contracting parties as sufficient to accomplish that object.

Denying, as we did and do, all color of right to exercise any such general police over the flags of independent nations, we did not demand of Great Britain any formal renunciation of her pretension; still less had we the idea of yielding any thing ourselves in that respect. We chose to make a practical settlement of the question. This we owed to what we had already done upon this subject. The honor of the country called for it; the honor of its flag demanded that it should not be used by others, to cover an iniquitous traffic. This Government, I am very sure, has both the inclination and the ability to do this; and, if need be, it will not content itself with a fleet of eighty guns; but, sooner than any foreign Government shall exercise the province of executing its laws and fulfilling its obligations—the highest of which is to protect its flag alike from abuse or insult—it would, I doubt not, put in requisition for that purpose its whole naval power. The purpose of this Government is faithfully to fulfil the treaty on its part; and it will not permit itself to doubt that Great Britain will comply with it on hers. In this way, peace will best be preserved, and the most amicable relations maintained between the two countries.

JOHN TYLER.

The Clerk had read but a small portion of the Message, when the reading was arrested; and,

On motion of Mr. BORRIS,  
The House adjourned.

IN SENATE.

FRIDAY, MARCH 8.

*Lieutenant Fremont's Expedition to the Rocky Mountains.*

A communication was received from the War Department, in answer to a call heretofore made for the report of Lieutenant Fremont's expedition to the Rocky Mountains.

Mr. LINN moved that it be printed for the use of the Senate; and also that one thousand extra copies be printed.

In support of his motion, Mr. L. said, that in the course of the last summer a very interesting expedition had been undertaken to the Rocky Mountains, ordered by Colonel Abert, chief of the Topographical Bureau, with the sanction of the Secretary of War, and executed by Lieutenant Fremont of the topographical engineers. The object of the expedition was to examine and report upon the rivers and the country between the frontiers of Missouri and the base of the Rocky Mountains; and especially to examine the character, and ascertain the latitude and longitude of the South Pass, the great crossing-place in these mountains on the way to the Oregon. All the objects of the expedition had been accomplished, and in a

way to be beneficial to science, and instructive to the general reader, as well as useful to the Government.

Supplied with the best astronomical and barometrical instruments, well qualified to use them, and accompanied by twenty-five *voyageurs* enlisted for the purpose at St. Louis, and trained to all the hardships and dangers of the prairies and the mountains, Mr. Fremont left the mouth of the Kansas, on the frontiers of Missouri, on the 10th of June; and, in the almost incredibly short space of four months, returned to the same point, without an accident to a man, and with a vast mass of useful observations, and many hundred specimens in botany and geology.

In executing his instructions, Mr. Fremont proceeded up the Kansas River far enough to ascertain its character, and then crossed over to the Great Platte, and pursued that river to its source in the mountains, where the Sweet Water (a head branch of the Platte) issues from the neighborhood of the South Pass. He reached the pass on the 8th of August, and describes it as a wide and low depression in the mountains, where the ascent is as easy as that of the hill on which this Capitol stands, and where a plainly-beaten wagon road leads to the Oregon, through the valley of Lewis's River, a fork of the Columbia. He went through the Pass, and saw the head-waters of the Colorado, of the Gulf of California; and, leaving the valleys to indulge a laudable curiosity, and to make some useful observations, and attended by four of his men, he climbed the loftiest peak of the Rocky Mountains, until then untrodden by any known human being; and, on the 15th of August, looked down upon ice and snow some thousand feet below, and traced in the distance the valleys of the rivers which, taking their rise in the same elevated ridge, flow in opposite directions to the Pacific Ocean and to the Mississippi. From that ultimate point he returned by the valley of the Great Platte, following this stream in its whole course, and solving all questions in relation to its navigability, and the character of the country through which it flows.

Over the whole course of this extended route, barometrical observations were made by Mr. Fremont, to ascertain elevations both of the plains and of the mountains; astronomical observations were taken, to ascertain latitudes and longitudes; the face of the country was marked as arable or sterile; the facility for travelling, and the practicability of routes, noted; the grand features of nature described, and some presented in drawings; military positions indicated; and a large contribution to geology and botany was made in the varieties of plants, flowers, shrubs, trees, and grasses, and rocks and earths, which were enumerated. Drawings of some grand and striking points, and a map of the whole route, illustrate the report, and facilitate the understanding of its

details. Eight carts, drawn by two mules each, accompanied the expedition; a fact which attests the facility of travelling in this vast region. Herds of buffaloes furnished subsistence to the men; a short, nutritious grass, sustained the horses and mules. Two boys, (one of twelve\* years of age, the other of eighteen,†) besides the enlisted men, accompanied the expedition, and took their share of its hardships; which proves that boys, as well as men, are able to traverse the country to the Rocky Mountains.

The result of all his observations Mr. Fremont had condensed into a brief report—enough to make a document of some ninety or one hundred pages; and, believing that this document would be of general interest to the whole country, and beneficial to science, as well as useful to the Government, I move the printing of the extra number which has been named.

In making this motion, and in bringing this report to the notice of the Senate, I take a great pleasure in noticing the activity and importance of the Topographical Bureau. Under its skillful and vigilant head, (Colonel Abert,) numerous valuable and incessant surveys are made; and a mass of information collected of the highest importance to the country generally, as well as to the military branch of the public service. This report proves conclusively that the country, for several hundred miles from the frontier of Missouri, is exceedingly beautiful and fertile; alternate woodland and prairie, and certain portions well supplied with water. It also proves that the valley of the river Platte has a very rich soil, affording great facilities for emigrants to the west of the Rocky Mountains.

The printing was ordered.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, March 8.

#### *The Speaker's Administration.*

Mr. WELLER, of Ohio, on leave given, had presented the following resolution:

*Resolved*, That the thanks of this House be offered to the Hon. JOHN WHITE, for the able, impartial, and dignified manner in which he has discharged the duties of Speaker during the 27th Congress.

The question was taken, and the vote resulted—yeas 141, nays 17.

Mr. PICKENS then moved that the House adjourn *sine die*; which being carried,

The SPEAKER addressed the House as follows:

GENTLEMEN: Before I declare, for the last time, your adjournment, allow me to tender to each and every one of you, my grateful thanks for the attention and respect I have invariably received as your presiding officer; and especially for the flattering

\* Randolph Benton, son of Senator Benton.

† Henry Brant, son of Col. Brant, of St. Louis, Mo.

3d Sess.]

Adjournment.

[MARCH, 1848.]

expression of favorable opinion contained in the resolution ordered to be entered on your journal this night. Yet I cannot but feel that I am more indebted to the kindness of this House, than its justice, in the adoption of this resolution.

I trust, however, I shall ever cherish all those emotions of gratitude and affection which so signal an instance of your generosity ought to inspire. Whilst the censure of this body cannot be considered a trivial punishment, its praise can never be esteemed an ordinary compliment. Next to the satisfaction arising from a consciousness of having discharged my duty, is the approbation of those who have been constant witnesses of my official conduct. It was with diffidence and hesitancy, knowing well the high but just responsibility of this station, that I persuaded myself to engage in the discharge of its delicate and arduous duties. Nothing but the hope that I should receive the cordial support of the liberal of all sides in this House, could have induced me to undertake so difficult a task.

I take pleasure in stating that my most sanguine expectations of candor and favor have been more than realized. Amidst all the excitement growing out of animated debates upon the great interests of the country, which have so often and so deeply impressed all our minds, and enlisted the warmest feelings of the heart, I have experienced a uniform politeness from every quarter of this House. When, in the trial of opinion upon questions of importance and difficulty, this House has been equally divided, and my vote has been demanded by the rules, I have invariably found, in that half of the members from whose judgment I have differed, a disposition to allow me the same freedom of deliberation and independence of thought which they asserted for themselves.

The position I have occupied since my elevation to this Chair has made it my duty to scan closely the progress of business in this House; and I owe it to truth and justice to declare, without reference to party, that I have witnessed an industry, a patriotism, and independence, a series of information and eloquence, that would have done honor to any deliberative assembly in any age or country.

Well am I convinced, in despite of the recent efforts that have been made, in various quarters, by

misrepresentation and traduction, to weaken the public respect and confidence in the immediate Representatives of the people, that the scrutiny of time will prove this House to be the sanctuary of the constitution—the citadel of civil liberty—the palladium of this republic. It is here—it is here, in this grand inquest of the nation—here, if anywhere, that resistance will be made to the silent arts of corruption, or to the daring encroachments of power; and if the constitution, the sacred charter of American freedom, be destined to perish by the ruthless hand of the demagogue or the usurper, (which God avert!) here, upon this floor, it will breathe its last agonies—its dying gasp.

In the course of our deliberations, in a moment of commotion and excitement, I am sensible I may, at times, have wounded the feelings of members. I have never arrested the progress of business, to enter into explanations. My position in this chair made it impossible for me to do so, without endangering the order and dignity of this House. Besides, the moment of irritation is not the most propitious time for satisfactory explanations. I have chosen, at the hazard of injustice to my motives, to leave my justification to the calm and sober reflection of members. On my part, I have no wrongs to complain of from any individual upon this floor. If any have been intended or done, they have long since been forgiven and forgotten. I thank my God I have no memory for injuries.

We are now about to part—many, very many of us, never to meet again. Let us separate as social, moral beings should separate—as friends, as brothers. May the honor of this House, and the honor of this nation, be the paramount ambition of us all. No matter what may be our future destiny—whether in private or public life—let all the ends we aim at be our country's, God's, and Truth's.

With cordial wishes for your health and happiness, and fervent prayers for the peace, prosperity, and lasting liberty of our common country, I pronounce this House adjourned without day.

The address was received with loud expressions of gratification.

And the House, *sine die*, adjourned.



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